

## Union Calendar No. 93

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2511

[Report No. 107-157]

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production.

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### IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2001

Mr. MCCrERY introduced the following bill; which was referred to the Committee on Ways and Means

JULY 24, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 17, 2001]

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## A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “En-*  
 3 *ergy Tax Policy Act of 2001”.*

4 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
 5 *expressly provided, whenever in this Act an amendment or*  
 6 *repeal is expressed in terms of an amendment to, or repeal*  
 7 *of, a section or other provision, the reference shall be consid-*  
 8 *ered to be made to a section or other provision of the Inter-*  
 9 *nal Revenue Code of 1986.*

10 (c) *TABLE OF CONTENTS.*—*The table of contents of this*  
 11 *Act is as follows:*

*TITLE I—CONSERVATION*

- Sec. 101. Credit for residential solar energy property.*
- Sec. 102. Extension and expansion of credit for electricity produced from renew-*  
*able resources.*
- Sec. 103. Credit for qualified stationary fuel cell powerplants.*
- Sec. 104. Alternative motor vehicle credit.*
- Sec. 105. Extension of deduction for certain refueling property.*
- Sec. 106. Modification of credit for qualified electric vehicles.*
- Sec. 107. Tax credit for energy efficient appliances.*
- Sec. 108. Credit for energy efficiency improvements to existing homes.*
- Sec. 109. Business credit for construction of new energy efficient home.*
- Sec. 110. Allowance of deduction for energy efficient commercial building prop-*  
*erty.*
- Sec. 111. Allowance of deduction for qualified energy management devices and*  
*retrofitted qualified meters.*
- Sec. 112. 3-year applicable recovery period for depreciation of qualified energy*  
*management devices.*
- Sec. 113. Energy credit for combined heat and power system property.*
- Sec. 114. New nonrefundable personal credits allowed against regular and min-*  
*imum taxes.*
- Sec. 115. Phaseout of 4.3-cent motor fuel excise taxes on railroads and inland wa-*  
*terway transportation which remain in general fund.*
- Sec. 116. Reduced motor fuel excise tax on certain mixtures of diesel fuel.*
- Sec. 117. Credit for investment in qualifying advanced clean coal technology.*
- Sec. 118. Credit for production from qualifying advanced clean coal technology.*

*TITLE II—RELIABILITY*

- Sec. 201. Natural gas gathering lines treated as 7-year property.*
- Sec. 202. Natural gas distribution lines treated as 10-year property.*
- Sec. 203. Petroleum refining property treated as 7-year property.*

- Sec. 204. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.*
- Sec. 205. Environmental tax credit.*
- Sec. 206. Determination of small refiner exception to oil depletion deduction.*
- Sec. 207. Tax-exempt bond financing of certain electric facilities.*
- Sec. 208. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.*
- Sec. 209. Distributions of stock to implement Federal Energy Regulatory Commission or State electric restructuring policy.*
- Sec. 210. Modifications to special rules for nuclear decommissioning costs.*
- Sec. 211. Treatment of certain income of cooperatives.*
- Sec. 212. Repeal of requirement of certain approved terminals to offer dyed diesel fuel and kerosene for nontaxable purposes.*
- Sec. 213. Arbitrage rules not to apply to prepayments for natural gas.*

### **TITLE III—PRODUCTION**

- Sec. 301. Oil and gas from marginal wells.*
- Sec. 302. Temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production.*
- Sec. 303. Deduction for delay rental payments.*
- Sec. 304. Election to expense geological and geophysical expenditures.*
- Sec. 305. 5-year net operating loss carryback for losses attributable to operating mineral interests of oil and gas producers.*
- Sec. 306. Extension and modification of credit for producing fuel from a non-conventional source.*
- Sec. 307. Business related energy credits allowed against regular and minimum tax.*
- Sec. 308. Temporary repeal of alternative minimum tax preference for intangible drilling costs.*
- Sec. 309. Allowance of enhanced recovery credit against the alternative minimum tax.*
- Sec. 310. Extension of certain benefits for energy-related businesses on Indian reservations.*

## **1 TITLE I—CONSERVATION**

### **2 SEC. 101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROP-** **3 ERTY.**

**4** (a) *IN GENERAL.*—Subpart A of part IV of subchapter  
**5** *A of chapter 1 (relating to nonrefundable personal credits)*  
**6** *is amended by inserting after section 25B the following new*  
**7** *section:*

1 **“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.**

2 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an indi-*  
 3 *vidual, there shall be allowed as a credit against the tax*  
 4 *imposed by this chapter for the taxable year an amount*  
 5 *equal to the sum of—*

6 “(1) *15 percent of the qualified photovoltaic*  
 7 *property expenditures made by the taxpayer during*  
 8 *such year, and*

9 “(2) *15 percent of the qualified solar water heat-*  
 10 *ing property expenditures made by the taxpayer dur-*  
 11 *ing the taxable year.*

12 “(b) *LIMITATIONS.*—

13 “(1) *MAXIMUM CREDIT.*—*The credit allowed*  
 14 *under subsection (a) shall not exceed—*

15 “(A) *\$2,000 for each system of property de-*  
 16 *scribed in subsection (c)(1), and*

17 “(B) *\$2,000 for each system of property de-*  
 18 *scribed in subsection (c)(2).*

19 “(2) *SAFETY CERTIFICATIONS.*—*No credit shall*  
 20 *be allowed under this section for an item of property*  
 21 *unless—*

22 “(A) *in the case of solar water heating*  
 23 *equipment, such equipment is certified for per-*  
 24 *formance and safety by the non-profit Solar Rat-*  
 25 *ing Certification Corporation or a comparable*

1            *entity endorsed by the government of the State*  
 2            *in which such property is installed, and*

3            *“(B) in the case of a photovoltaic system,*  
 4            *such system meets appropriate fire and electric*  
 5            *code requirements.*

6            *“(3) LIMITATION BASED ON AMOUNT OF TAX.—*  
 7            *The credit allowed under subsection (a) for the tax-*  
 8            *able year shall not exceed the excess of—*

9            *“(A) the sum of the regular tax liability (as*  
 10            *defined in section 26(b)) plus the tax imposed by*  
 11            *section 55, over*

12            *“(B) the sum of the credits allowable under*  
 13            *this subpart (other than this section and sections*  
 14            *23, 25D, and 25E) and section 27 for the taxable*  
 15            *year.*

16            *“(c) DEFINITIONS.—For purposes of this section—*

17            *“(1) QUALIFIED SOLAR WATER HEATING PROP-*  
 18            *ERTY EXPENDITURE.—The term ‘qualified solar water*  
 19            *heating property expenditure’ means an expenditure*  
 20            *for property to heat water for use in a dwelling unit*  
 21            *located in the United States and used as a residence*  
 22            *if at least half of the energy used by such property*  
 23            *for such purpose is derived from the sun.*

24            *“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-*  
 25            *PENDITURE.—The term ‘qualified photovoltaic prop-*

erty expenditure' means an expenditure for property that uses solar energy to generate electricity for use in a dwelling unit.

“(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1) or (2) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(5) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

“(d) SPECIAL RULES.—

“(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is

1 *jointly occupied and used during any calendar year*  
2 *as a residence by 2 or more individuals the following*  
3 *shall apply:*

4 “(A) *The amount of the credit allowable*  
5 *under subsection (a) by reason of expenditures*  
6 *(as the case may be) made during such calendar*  
7 *year by any of such individuals with respect to*  
8 *such dwelling unit shall be determined by treat-*  
9 *ing all of such individuals as 1 taxpayer whose*  
10 *taxable year is such calendar year.*

11 “(B) *There shall be allowable with respect to*  
12 *such expenditures to each of such individuals, a*  
13 *credit under subsection (a) for the taxable year*  
14 *in which such calendar year ends in an amount*  
15 *which bears the same ratio to the amount deter-*  
16 *mined under subparagraph (A) as the amount of*  
17 *such expenditures made by such individual dur-*  
18 *ing such calendar year bears to the aggregate of*  
19 *such expenditures made by all of such individ-*  
20 *uals during such calendar year.*

21 “(2) *TENANT-STOCKHOLDER IN COOPERATIVE*  
22 *HOUSING CORPORATION.—In the case of an indi-*  
23 *vidual who is a tenant-stockholder (as defined in sec-*  
24 *tion 216) in a cooperative housing corporation (as de-*  
25 *finied in such section), such individual shall be treated*

1       *as having made his tenant-stockholder's proportionate*  
 2       *share (as defined in section 216(b)(3)) of any expend-*  
 3       *itures of such corporation.*

4               “(3) CONDOMINIUMS.—

5               “(A) IN GENERAL.—*In the case of an indi-*  
 6       *vidual who is a member of a condominium man-*  
 7       *agement association with respect to a condo-*  
 8       *minium which he owns, such individual shall be*  
 9       *treated as having made his proportionate share*  
 10       *of any expenditures of such association.*

11              “(B) CONDOMINIUM MANAGEMENT ASSOCIA-  
 12       *TION.—For purposes of this paragraph, the term*  
 13       *‘condominium management association’ means*  
 14       *an organization which meets the requirements of*  
 15       *paragraph (1) of section 528(c) (other than sub-*  
 16       *paragraph (E) thereof) with respect to a condo-*  
 17       *minium project substantially all of the units of*  
 18       *which are used as residences.*

19              “(4) ALLOCATION IN CERTAIN CASES.—*If less*  
 20       *than 80 percent of the use of an item is for nonbusi-*  
 21       *ness purposes, only that portion of the expenditures*  
 22       *for such item which is properly allocable to use for*  
 23       *nonbusiness purposes shall be taken into account.*

24              “(5) WHEN EXPENDITURE MADE; AMOUNT OF  
 25       EXPENDITURE.—



1           “(A) *IN GENERAL.*—*Except as provided in*  
2           *subparagraph (B), an expenditure with respect*  
3           *to an item shall be treated as made when the*  
4           *original installation of the item is completed.*

5           “(B) *EXPENDITURES PART OF BUILDING*  
6           *CONSTRUCTION.*—*In the case of an expenditure*  
7           *in connection with the construction or recon-*  
8           *struction of a structure, such expenditure shall be*  
9           *treated as made when the original use of the con-*  
10          *structed or reconstructed structure by the tax-*  
11          *payer begins.*

12          “(C) *AMOUNT.*—*The amount of any expend-*  
13          *iture shall be the cost thereof.*

14          “(6) *PROPERTY FINANCED BY SUBSIDIZED EN-*  
15          *ERGY FINANCING.*—*For purposes of determining the*  
16          *amount of expenditures made by any individual with*  
17          *respect to any dwelling unit, there shall not be taken*  
18          *in to account expenditures which are made from sub-*  
19          *sidized energy financing (as defined in section*  
20          *48(a)(4)(A)).*

21          “(e) *BASIS ADJUSTMENTS.*—*For purposes of this sub-*  
22          *title, if a credit is allowed under this section for any ex-*  
23          *penditure with respect to any property, the increase in the*  
24          *basis of such property which would (but for this subsection)*

1 result from such expenditure shall be reduced by the amount  
2 of the credit so allowed.

3 “(f) *TERMINATION.*—The credit allowed under this sec-  
4 tion shall not apply to taxable years beginning after Decem-  
5 ber 31, 2006 (December 31, 2008, with respect to qualified  
6 photovoltaic property expenditures).”.

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) Subsection (a) of section 1016 is amended by  
9 striking “and” at the end of paragraph (27), by strik-  
10 ing the period at the end of paragraph (28) and in-  
11 serting “, and”, and by adding at the end the fol-  
12 lowing new paragraph:

13 “(29) to the extent provided in section 25C(e), in  
14 the case of amounts with respect to which a credit has  
15 been allowed under section 25C.”.

16 (2) The table of sections for subpart A of part IV  
17 of subchapter A of chapter 1 is amended by inserting  
18 after the item relating to section 25B the following  
19 new item:

“Sec. 25C. Residential solar energy property.”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this  
21 section shall apply to taxable years ending after December  
22 31, 2001.

1 **SEC. 102. EXTENSION AND EXPANSION OF CREDIT FOR**  
2 **ELECTRICITY PRODUCED FROM RENEWABLE**  
3 **RESOURCES.**

4 (a) *EXTENSION OF CREDIT FOR WIND AND CLOSED-*  
5 *LOOP BIOMASS FACILITIES.*—Subparagraphs (A) and (B)  
6 of section 45(c)(3) are each amended by striking “2002”  
7 and inserting “2007”.

8 (b) *EXPANSION OF CREDIT FOR OPEN-LOOP BIOMASS*  
9 *AND LANDFILL GAS FACILITIES.*—Paragraph (3) of section  
10 45(c) is amended by adding at the end the following new  
11 subparagraphs:

12 “(D) *OPEN-LOOP BIOMASS FACILITIES.*—In  
13 the case of a facility using open-loop biomass to  
14 produce electricity, the term ‘qualified facility’  
15 means any facility owned by the taxpayer which  
16 is originally placed in service before January 1,  
17 2007.

18 “(E) *LANDFILL GAS FACILITIES.*—In the  
19 case of a facility producing electricity from gas  
20 derived from the biodegradation of municipal  
21 solid waste, the term ‘qualified facility’ means  
22 any facility owned by the taxpayer which is  
23 originally placed in service before January 1,  
24 2007.”.

1        *(c) DEFINITION AND SPECIAL RULES.—Subsection (c)*  
 2 *of section 45 is amended by adding at the end the following*  
 3 *new paragraphs:*

4            *“(5) OPEN-LOOP BIOMASS.—The term ‘open-loop*  
 5 *biomass’ means any solid, nonhazardous, cellulosic*  
 6 *waste material which is segregated from other waste*  
 7 *materials and which is derived from—*

8            *“(A) any of the following forest-related re-*  
 9 *sources: mill residues, precommercial thinnings,*  
 10 *slash, and brush, but not including old-growth*  
 11 *timber,*

12            *“(B) solid wood waste materials, including*  
 13 *waste pallets, crates, dunnage, manufacturing*  
 14 *and construction wood wastes (other than pres-*  
 15 *sure-treated, chemically-treated, or painted wood*  
 16 *wastes), and landscape or right-of-way tree trim-*  
 17 *mings, but not including municipal solid waste*  
 18 *(garbage), gas derived from the biodegradation of*  
 19 *solid waste, or paper that is commonly recycled,*  
 20 *or*

21            *“(C) agriculture sources, including orchard*  
 22 *tree crops, vineyard, grain, legumes, sugar, and*  
 23 *other crop by-products or residues.*

24        *Such term shall not include closed-loop biomass.*

1           “(6) *REDUCED CREDIT FOR CERTAIN*  
 2           *PREEFFECTIVE DATE FACILITIES.*—*In the case of any*  
 3           *facility described in subparagraph (D) or (E) of*  
 4           *paragraph (3) which is placed in service before the*  
 5           *date of the enactment of this subparagraph—*

6                     “(A) *subsection (a)(1) shall be applied by*  
 7                     *substituting ‘1.0 cents’ for ‘1.5 cents’, and*

8                     “(B) *the 5-year period beginning on the*  
 9                     *date of the enactment of this paragraph shall be*  
 10                    *substituted in lieu of the 10-year period in sub-*  
 11                    *section (a)(2)(A)(ii).*

12           “(7) *LIMIT ON REDUCTIONS FOR GRANTS, ETC.,*  
 13           *FOR OPEN-LOOP BIOMASS FACILITIES.*—*If the amount*  
 14           *of the credit determined under subsection (a) with re-*  
 15           *spect to any open-loop biomass facility is required to*  
 16           *be reduced under paragraph (3) of subsection (b), the*  
 17           *fraction under such paragraph shall in no event be*  
 18           *greater than  $\frac{4}{5}$ .*

19           “(8) *COORDINATION WITH SECTION 29.*—*The*  
 20           *term ‘qualified facility’ shall not include any facility*  
 21           *the production from which is allowed as a credit*  
 22           *under section 29 for the taxable year or any prior*  
 23           *taxable year.”.*

1       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to electricity sold after the date of the*  
 3 *enactment of this Act.*

4   **SEC. 103. CREDIT FOR QUALIFIED STATIONARY FUEL CELL**  
 5       **POWERPLANTS.**

6       (a) *BUSINESS PROPERTY.*—

7           (1) *IN GENERAL.*—*Subparagraph (A) of section*  
 8 *48(a)(3) (defining energy property) is amended by*  
 9 *striking “or” at the end of clause (i), by adding “or”*  
 10 *at the end of clause (ii), and by inserting after clause*  
 11 *(ii) the following new clause:*

12                   *“(iii) equipment which is part of a*  
 13 *qualified stationary fuel cell powerplant,”.*

14           (2) *QUALIFIED STATIONARY FUEL CELL POWER-*  
 15 *PLANT.*—*Subsection (a) of section 48 is amended by*  
 16 *redesignating paragraphs (4) and (5) as paragraphs*  
 17 *(5) and (6), respectively, and by inserting after para-*  
 18 *graph (3) the following new paragraph:*

19                   *“(4) QUALIFIED STATIONARY FUEL CELL POWER-*  
 20 *PLANT.*—*For purposes of this subsection—*

21                           *“(A) IN GENERAL.*—*The term ‘qualified sta-*  
 22 *tionary fuel cell powerplant’ means a stationary*  
 23 *fuel cell power plant that has an electricity-only*  
 24 *generation efficiency greater than 30 percent.*

1           “(B) *LIMITATION.*—*In the case of qualified*  
 2           *stationary fuel cell powerplant placed in service*  
 3           *during the taxable year, the credit under sub-*  
 4           *section (a) for such year may not exceed \$1,000*  
 5           *for each kilowatt of capacity.*

6           “(C) *STATIONARY FUEL CELL POWER*  
 7           *PLANT.*—*The term ‘stationary fuel cell power*  
 8           *plant’ means an integrated system comprised of*  
 9           *a fuel cell stack assembly and associated balance*  
 10           *of plant components that converts a fuel into*  
 11           *electricity using electrochemical means.*

12           “(D) *TERMINATION.*—*Such term shall not*  
 13           *include any property placed in service after De-*  
 14           *cember 31, 2006.”*

15           “(3) *EFFECTIVE DATE.*—*The amendments made*  
 16           *by this subsection shall apply to property placed in*  
 17           *service after December 31, 2001, under rules similar*  
 18           *to the rules of section 48(m) of the Internal Revenue*  
 19           *Code of 1986 (as in effect on the day before the date*  
 20           *of the enactment of the Revenue Reconciliation Act of*  
 21           *1990).*

22           “(b) *NONBUSINESS PROPERTY.*—

23           “(1) *IN GENERAL.*—*Subpart A of part IV of sub-*  
 24           *chapter A of chapter 1 (relating to nonrefundable per-*

1       sonal credits) is amended by inserting after section  
2       25C the following new section:

3       **“SEC. 25D. NONBUSINESS QUALIFIED STATIONARY FUEL**  
4               **CELL POWERPLANT.**

5       “(a) *IN GENERAL.*—In the case of an individual, there  
6       shall be allowed as a credit against the tax imposed by this  
7       chapter for the taxable year an amount equal to 10 percent  
8       of the qualified stationary fuel cell powerplant expenditures  
9       which are paid or incurred during such year.

10       “(b) *LIMITATIONS.*—

11               “(1) *IN GENERAL.*—The credit allowed under  
12       subsection (a) for the taxable year and all prior tax-  
13       able years shall not exceed \$1,000 for each kilowatt of  
14       capacity.

15               “(2) *LIMITATION BASED ON AMOUNT OF TAX.*—  
16       The credit allowed under subsection (a) for the tax-  
17       able year shall not exceed the excess of—

18                       “(A) the sum of the regular tax liability (as  
19               defined in section 26(b)) plus the tax imposed by  
20               section 55, over

21                       “(B) the sum of the credits allowable under  
22               this subpart (other than this section and sections  
23               23 and 25E) and section 27 for the taxable year.

24       “(c) *QUALIFIED STATIONARY FUEL CELL POWER-*  
25       *PLANT EXPENDITURES.*—For purposes of this section, the



1 term ‘qualified stationary fuel cell powerplant expenditures’  
 2 means expenditures by the taxpayer for any qualified sta-  
 3 tionary fuel cell powerplant (as defined in section  
 4 48(a)(4))—

5 “(1) which meets the requirements of subpara-  
 6 graphs (B) and (D) of section 48(a)(3), and

7 “(2) which is installed on or in connection with  
 8 a dwelling unit—

9 “(A) which is located in the United States,  
 10 and

11 “(B) which is used by the taxpayer as a res-  
 12 idence.

13 Such term includes expenditures for labor costs properly al-  
 14 locable to the onsite preparation, assembly, or original in-  
 15 stallation of the property.

16 “(d) SPECIAL RULES.—For purposes of this section,  
 17 rules similar to the rules of section 25C(d) shall apply.

18 “(e) BASIS ADJUSTMENTS.—For purposes of this sub-  
 19 title, if a credit is allowed under this section for any ex-  
 20 penditure with respect to any property, the increase in the  
 21 basis of such property which would (but for this subsection)  
 22 result from such expenditure shall be reduced by the amount  
 23 of the credit so allowed.

24 “(f) TERMINATION.—This section shall not apply to  
 25 any expenditure made after December 31, 2006.”.

1           (2) *CONFORMING AMENDMENTS.*—

2                   (A) *Subsection (a) of section 1016 is*  
 3                   *amended by striking “and” at the end of para-*  
 4                   *graph (28), by striking the period at the end of*  
 5                   *paragraph (29) and inserting “, and”, and by*  
 6                   *adding at the end the following new paragraph:*

7                   *“(30) to the extent provided in section 25D(e), in*  
 8                   *the case of amounts with respect to which a credit has*  
 9                   *been allowed under section 25D.”.*

10                   (B) *The table of sections for subpart A of*  
 11                   *part IV of subchapter A of chapter 1 is amended*  
 12                   *by inserting after the item relating to section*  
 13                   *25C the following new item:*

*“Sec. 25D. Nonbusiness qualified stationary fuel cell powerplant.”.*

14                   (3) *EFFECTIVE DATE.*—*The amendments made*  
 15                   *by this subsection shall apply to expenditures paid or*  
 16                   *incurred after December 31, 2001.*

17 **SEC. 104. ALTERNATIVE MOTOR VEHICLE CREDIT.**

18                   (a) *IN GENERAL.*—*Subpart B of part IV of subchapter*  
 19                   *A of chapter 1 (relating to foreign tax credit, etc.) is amend-*  
 20                   *ed by adding at the end the following:*

21 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

22                   “(a) *ALLOWANCE OF CREDIT.*—*There shall be allowed*  
 23                   *as a credit against the tax imposed by this chapter for the*  
 24                   *taxable year an amount equal to the sum of—*

1           “(1) the new qualified fuel cell motor vehicle  
2           credit determined under subsection (b),

3           “(2) the new qualified hybrid motor vehicle cred-  
4           it determined under subsection (c),

5           “(3) the new qualified alternative fuel motor ve-  
6           hicle credit determined under subsection (d), and

7           “(4) the advanced lean burn technology motor  
8           vehicle credit determined under subsection (e).

9           “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE  
10          CREDIT.—

11           “(1) IN GENERAL.—For purposes of subsection  
12          (a), the new qualified fuel cell motor vehicle credit de-  
13          termined under this subsection with respect to a new  
14          qualified fuel cell motor vehicle placed in service by  
15          the taxpayer during the taxable year is—

16           “(A) \$4,000, if such vehicle has a gross ve-  
17          hicle weight rating of not more than 8,500  
18          pounds,

19           “(B) \$10,000, if such vehicle has a gross ve-  
20          hicle weight rating of more than 8,500 pounds  
21          but not more than 14,000 pounds,

22           “(C) \$20,000, if such vehicle has a gross ve-  
23          hicle weight rating of more than 14,000 pounds  
24          but not more than 26,000 pounds, and

1           “(D) \$40,000, if such vehicle has a gross ve-  
 2           hicle weight rating of more than 26,000 pounds.

3           “(2) INCREASE FOR FUEL EFFICIENCY.—

4           “(A) IN GENERAL.—The amount determined  
 5           under paragraph (1)(A) with respect to a new  
 6           qualified fuel cell motor vehicle which is a pas-  
 7           senger automobile or light truck shall be in-  
 8           creased by—

9           “(i) \$1,000, if such vehicle achieves at  
 10           least 150 percent but less than 175 percent  
 11           of the 2000 model year city fuel economy,

12           “(ii) \$1,500, if such vehicle achieves at  
 13           least 175 percent but less than 200 percent  
 14           of the 2000 model year city fuel economy,

15           “(iii) \$2,000, if such vehicle achieves  
 16           at least 200 percent but less than 225 per-  
 17           cent of the 2000 model year city fuel econ-  
 18           omy,

19           “(iv) \$2,500, if such vehicle achieves at  
 20           least 225 percent but less than 250 percent  
 21           of the 2000 model year city fuel economy,

22           “(v) \$3,000, if such vehicle achieves at  
 23           least 250 percent but less than 275 percent  
 24           of the 2000 model year city fuel economy,

“(vii) \$4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

“(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) *In the case of a passenger automobile:*

1,500 or 1,750 lbs .....	43.7 mpg
2,000 lbs .....	38.3 mpg
2,250 lbs .....	34.1 mpg
2,500 lbs .....	30.7 mpg
2,750 lbs .....	27.9 mpg
3,000 lbs .....	25.6 mpg
3,500 lbs .....	22.0 mpg
4,000 lbs .....	19.3 mpg
4,500 lbs .....	17.2 mpg
5,000 lbs .....	15.5 mpg
5,500 lbs .....	14.1 mpg
6,000 lbs .....	12.9 mpg
6,500 lbs .....	11.9 mpg
7,000 or 8,500 lbs .....	11.1 mpg.

15

“(ii) *In the case of a light truck:*

1,500 or 1,750 lbs .....	37.6 mpg
2,000 lbs .....	33.7 mpg
2,250 lbs .....	30.6 mpg
2,500 lbs .....	28.0 mpg

***“If vehicle inertia weight The 2000 model year city fuel  
class is: economy is:***

2,750 lbs .....	25.9 mpg
3,000 lbs .....	24.1 mpg
3,500 lbs .....	21.3 mpg
4,000 lbs .....	19.0 mpg
4,500 lbs .....	17.3 mpg
5,000 lbs .....	15.8 mpg
5,500 lbs .....	14.6 mpg
6,000 lbs .....	13.6 mpg
6,500 lbs .....	12.8 mpg
7,000 or 8,500 lbs .....	12.0 mpg.

1                   “(C) *VEHICLE INERTIA WEIGHT CLASS.*—

2                   *For purposes of subparagraph (B), the term ‘ve-*  
3                   *hicle inertia weight class’ has the same meaning*  
4                   *as when defined in regulations prescribed by the*  
5                   *Administrator of the Environmental Protection*  
6                   *Agency for purposes of the administration of title*  
7                   *II of the Clean Air Act (42 U.S.C. 7521 et seq.).*

8                   “(3) *NEW QUALIFIED FUEL CELL MOTOR VEHI-*  
9                   *CLE.*—*For purposes of this subsection, the term ‘new*  
10                   *qualified fuel cell motor vehicle’ means a motor*  
11                   *vehicle—*

12                   “(A) *which is propelled by power derived*  
13                   *from one or more cells which convert chemical*  
14                   *energy directly into electricity by combining ox-*  
15                   *xygen with hydrogen fuel which is stored on board*  
16                   *the vehicle in any form and may or may not re-*  
17                   *quire reformation prior to use,*

18                   “(B) *which, in the case of a passenger auto-*  
19                   *mobile or light truck—*

1           “(i) for 2002 and later model vehicles,  
 2           has received a certificate of conformity  
 3           under the Clean Air Act and meets or ex-  
 4           ceeds the equivalent qualifying California  
 5           low emission vehicle standard under section  
 6           243(e)(2) of the Clean Air Act for that make  
 7           and model year, and

8           “(ii) for 2004 and later model vehicles,  
 9           has received a certificate that such vehicle  
 10          meets or exceeds the Tier II emission level  
 11          established in regulations prescribed by the  
 12          Administrator of the Environmental Protec-  
 13          tion Agency under section 202(i) of the  
 14          Clean Air Act for that make and model year  
 15          vehicle,

16          “(C) the original use of which commences  
 17          with the taxpayer,

18          “(D) which is acquired for use or lease by  
 19          the taxpayer and not for resale, and

20          “(E) which is made by a manufacturer.

21          “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CRED-  
 22          IT.—

23               “(1) IN GENERAL.—For purposes of subsection  
 24          (a), the new qualified hybrid motor vehicle credit de-  
 25          termined under this subsection with respect to a new

qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

“(2) CREDIT AMOUNT.—

“(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

“(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

**“If percentage of the maximum available power is: The credit amount is:**

At least 2.5 percent but less than 10 percent .....	\$250
At least 10 percent but less than 20 percent .....	\$500
At least 20 percent but less than 30 percent .....	\$750
At least 30 percent .....	\$1,000.

“(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

“(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

**“If percentage of the maximum available power is: The credit amount is:**

At least 20 percent but less than 30 percent .....	\$1,500
At least 30 percent but less than 40 percent .....	\$1,750
At least 40 percent but less than 50 percent .....	\$2,000



***“If percentage of the maximum available power is: The credit amount is:***

<i>At least 50 percent but less than 60 percent .....</i>	<i>\$2,250</i>
<i>At least 60 percent .....</i>	<i>\$2,500.</i>

1                                   “(II) If such vehicle has a gross  
2                                   vehicle weight rating of more than  
3                                   14,000 but not more than 26,000  
4                                   pounds:

***“If percentage of the maximum available power is: The credit amount is:***

<i>At least 20 percent but less than 30 percent .....</i>	<i>\$4,000</i>
<i>At least 30 percent but less than 40 percent .....</i>	<i>\$4,500</i>
<i>At least 40 percent but less than 50 percent .....</i>	<i>\$5,000</i>
<i>At least 50 percent but less than 60 percent .....</i>	<i>\$5,500</i>
<i>At least 60 percent .....</i>	<i>\$6,000.</i>

5                                   “(III) If such vehicle has a gross  
6                                   vehicle weight rating of more than  
7                                   26,000 pounds:

***“If percentage of the maximum available power is: The credit amount is:***

<i>At least 20 percent but less than 30 percent .....</i>	<i>\$6,000</i>
<i>At least 30 percent but less than 40 percent .....</i>	<i>\$7,000</i>
<i>At least 40 percent but less than 50 percent .....</i>	<i>\$8,000</i>
<i>At least 50 percent but less than 60 percent .....</i>	<i>\$9,000</i>
<i>At least 60 percent .....</i>	<i>\$10,000.</i>

8                                   “(B) INCREASE FOR FUEL EFFICIENCY.—

9                                   “(i) AMOUNT.—The amount deter-  
10                                  mined under subparagraph (A)(i) with re-  
11                                  spect to a passenger automobile or light  
12                                  truck shall be increased by—

13                               “(I) \$1,000, if such vehicle  
14                               achieves at least 125 percent but less  
15                               than 150 percent of the 2000 model  
16                               year city fuel economy,

1                   “(II) \$1,500, if such vehicle  
2                   achieves at least 150 percent but less  
3                   than 175 percent of the 2000 model  
4                   year city fuel economy,

5                   “(III) \$2,000, if such vehicle  
6                   achieves at least 175 percent but less  
7                   than 200 percent of the 2000 model  
8                   year city fuel economy,

9                   “(IV) \$2,500, if such vehicle  
10                  achieves at least 200 percent but less  
11                  than 225 percent of the 2000 model  
12                  year city fuel economy,

13                  “(V) \$3,000, if such vehicle  
14                  achieves at least 225 percent but less  
15                  than 250 percent of the 2000 model  
16                  year city fuel economy, and

17                  “(VI) \$3,500, if such vehicle  
18                  achieves at least 250 percent of the  
19                  2000 model year city fuel economy.

20                  “(ii) 2000 MODEL YEAR CITY FUEL  
21                  ECONOMY.—For purposes of clause (i), the  
22                  2000 model year city fuel economy with re-  
23                  spect to a vehicle shall be determined using  
24                  the tables provided in subsection (b)(2)(B)  
25                  with respect to such vehicle.

1                   “(iii) *OPTION TO USE LIKE VEHI-*  
 2                   *CLE.—For purposes of clause (i), at the op-*  
 3                   *tion of the vehicle manufacturer, the in-*  
 4                   *crease for fuel efficiency may be calculated*  
 5                   *by comparing the new qualified hybrid*  
 6                   *motor vehicle to a ‘like vehicle’.*

7                   “(C) *INCREASE FOR ACCELERATED EMIS-*  
 8                   *SIONS PERFORMANCE.—The amount determined*  
 9                   *under subparagraph (A)(ii) with respect to an*  
 10                   *applicable heavy duty hybrid motor vehicle shall*  
 11                   *be increased by the increase credit amount deter-*  
 12                   *mined in accordance with the following tables:*

13                   “(i) *In the case of a vehicle which has*  
 14                   *a gross vehicle weight rating of not more*  
 15                   *than 14,000 pounds:*

<b><i>“If the model year is:</i></b>	<b><i>The increase credit amount is:</i></b>
2002 .....	\$3,500
2003 .....	\$3,000
2004 .....	\$2,500
2005 .....	\$2,000
2006 .....	\$1,500.

16                   “(ii) *In the case of a vehicle which has*  
 17                   *a gross vehicle weight rating of more than*  
 18                   *14,000 pounds but not more than 26,000*  
 19                   *pounds:*

<b><i>“If the model year is:</i></b>	<b><i>The increase credit amount is:</i></b>
2002 .....	\$9,000
2003 .....	\$7,750
2004 .....	\$6,500
2005 .....	\$5,250
2006 .....	\$4,000.

1                   “(iii) *In the case of a vehicle which has*  
 2                   *a gross vehicle weight rating of more than*  
 3                   *26,000 pounds:*

<b><i>“If the model year is:</i></b>	<b><i>The increase credit amount is:</i></b>
2002 .....	\$14,000
2003 .....	\$12,000
2004 .....	\$10,000
2005 .....	\$8,000
2006 .....	\$6,000.

4                   “(D) *CONSERVATION CREDIT.*—

5                   “(i) *AMOUNT.*—*The amount deter-*  
 6                   *mined under subparagraph (A)(i) with re-*  
 7                   *spect to a passenger automobile or light*  
 8                   *truck shall be increased by—*

9                   “(I) *\$250, if such vehicle achieves*  
 10                   *a lifetime fuel savings of at least 1,500*  
 11                   *gallons of gasoline, and*

12                   “(II) *\$500, if such vehicle achieves*  
 13                   *a lifetime fuel savings of at least 2,500*  
 14                   *gallons of gasoline.*

15                   “(ii) *LIFETIME FUEL SAVINGS FOR*  
 16                   *LIKE VEHICLE.*—*For purposes of clause (i),*  
 17                   *at the option of the vehicle manufacturer,*  
 18                   *the lifetime fuel savings fuel may be cal-*  
 19                   *culated by comparing the new qualified hy-*  
 20                   *brid motor vehicle to a ‘like vehicle’.*

21                   “(E) *DEFINITIONS.*—

1                   “(i) *APPLICABLE HEAVY DUTY HYBRID*  
2                   *MOTOR VEHICLE.*—For purposes of subpara-  
3                   graph (C), the term ‘applicable heavy duty  
4                   hybrid motor vehicle’ means a heavy duty  
5                   hybrid motor vehicle which is powered by  
6                   an internal combustion or heat engine  
7                   which is certified as meeting the emission  
8                   standards set in the regulations prescribed  
9                   by the Administrator of the Environmental  
10                  Protection Agency for 2007 and later model  
11                  year diesel heavy duty engines or 2008 and  
12                  later model year ottocycle heavy duty en-  
13                  gines, as applicable.

14                  “(ii) *HEAVY DUTY HYBRID MOTOR VE-*  
15                  *HICLE.*—For purposes of this paragraph,  
16                  the term ‘heavy duty hybrid motor vehicle’  
17                  means a new qualified hybrid motor vehicle  
18                  which has a gross vehicle weight rating of  
19                  more than 10,000 pounds and draws pro-  
20                  pulsion energy from both of the following  
21                  onboard sources of stored energy:

22                         “(I) *An internal combustion or*  
23                         *heat engine using consumable fuel*  
24                         *which, for 2002 and later model vehi-*  
25                         *cles, has received a certificate of con-*

1 *formity under the Clean Air Act and*  
2 *meets or exceeds a level of not greater*  
3 *than 3.0 grams per brake horsepower-*  
4 *hour of oxides of nitrogen and 0.01 per*  
5 *brake horsepower-hour of particulate*  
6 *matter.*

7 *“(II) A rechargeable energy stor-*  
8 *age system.*

9 *“(iii) MAXIMUM AVAILABLE POWER.—*

10 *“(I) PASSENGER AUTOMOBILE OR*  
11 *LIGHT TRUCK.—For purposes of sub-*  
12 *paragraph (A)(i), the term ‘maximum*  
13 *available power’ means the maximum*  
14 *power available from the battery or*  
15 *other electrical storage device, during a*  
16 *standard 10 second pulse power test,*  
17 *divided by the sum of the battery or*  
18 *other electrical storage device and the*  
19 *SAE net power of the heat engine.*

20 *“(II) HEAVY DUTY HYBRID MOTOR*  
21 *VEHICLE.—For purposes of subpara-*  
22 *graph (A)(ii), the term ‘maximum*  
23 *available power’ means the maximum*  
24 *power available from the battery or*  
25 *other electrical storage device, during a*

1                   *standard 10 second pulse power test,*  
2                   *divided by the vehicle's total traction*  
3                   *power. The term 'total traction power'*  
4                   *means the sum of the electric motor*  
5                   *peak power and the heat engine peak*  
6                   *power of the vehicle, except that if the*  
7                   *electric motor is the sole means by*  
8                   *which the vehicle can be driven, the*  
9                   *total traction power is the peak electric*  
10                  *motor power.*

11                  “(iv) *LIKE VEHICLE.*—For purposes of  
12                  subparagraph (B)(iii), the term ‘like vehi-  
13                  cle’ for a new qualified hybrid motor vehicle  
14                  derived from a conventional production ve-  
15                  hicle produced in the same model year  
16                  means a model that is equivalent in the fol-  
17                  lowing areas:

18                               “(I) *Body style (2-door or 4-door).*

19                               “(II) *Transmission (automatic or*  
20                               *manual).*

21                               “(III) *Acceleration performance*  
22                               *(± 0.05 seconds).*

23                               “(IV) *Drivetrain (2-wheel drive or*  
24                               *4-wheel drive).*

1                   “(V) *Certification by the Admin-*  
 2                   *istrator of the Environmental Protec-*  
 3                   *tion Agency.*

4                   “(v) *LIFETIME FUEL SAVINGS.—For*  
 5                   *purposes of subsection (c)(2)(D), the term*  
 6                   *‘lifetime fuel savings’ shall be calculated by*  
 7                   *dividing 120,000 by the difference between*  
 8                   *the 2000 model year city fuel economy for*  
 9                   *the vehicle inertia weight class and the city*  
 10                   *fuel economy for the new qualified hybrid*  
 11                   *motor vehicle.*

12                   “(3) *NEW QUALIFIED HYBRID MOTOR VEHI-*  
 13                   *CLE.—For purposes of this subsection, the term ‘new*  
 14                   *qualified hybrid motor vehicle’ means a motor*  
 15                   *vehicle—*

16                   “(A) *which draws propulsion energy from*  
 17                   *onboard sources of stored energy which are*  
 18                   *both—*

19                   “(i) *an internal combustion or heat en-*  
 20                   *gine using combustible fuel, and*

21                   “(ii) *a rechargeable energy storage sys-*  
 22                   *tem,*

23                   “(B) *which, in the case of a passenger auto-*  
 24                   *mobile or light truck, for 2002 and later model*  
 25                   *vehicles, has received a certificate of conformity*



1           *under the Clean Air Act and meets or exceeds*  
 2           *the equivalent qualifying California low emis-*  
 3           *sion vehicle standard under section 243(e)(2) of*  
 4           *the Clean Air Act for that make and model year,*

5                 *“(C) the original use of which commences*  
 6           *with the taxpayer,*

7                 *“(D) which is acquired for use or lease by*  
 8           *the taxpayer and not for resale, and*

9                 *“(E) which is made by a manufacturer.*

10           *“(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VE-*  
 11   *HICLE CREDIT.—*

12                 *“(1) ALLOWANCE OF CREDIT.—Except as pro-*  
 13           *vided in paragraph (5), the credit determined under*  
 14           *this subsection is an amount equal to the applicable*  
 15           *percentage of the incremental cost of any new quali-*  
 16           *fied alternative fuel motor vehicle placed in service by*  
 17           *the taxpayer during the taxable year.*

18                 *“(2) APPLICABLE PERCENTAGE.—For purposes*  
 19           *of paragraph (1), the applicable percentage with re-*  
 20           *spect to any new qualified alternative fuel motor vehi-*  
 21           *cle is—*

22                         *“(A) 50 percent, plus*

23                         *“(B) 30 percent, if such vehicle—*

24                                 *“(i) has received a certificate of con-*  
 25           *formity under the Clean Air Act and meets*

1           or exceeds the most stringent standard  
2           available for certification under the Clean  
3           Air Act for that make and model year vehi-  
4           cle (other than a zero emission standard), or  
5           “(ii) has received an order from an ap-  
6           plicable State certifying the vehicle for sale  
7           or lease in California and meets or exceeds  
8           the most stringent standard available for  
9           certification under the State laws of Cali-  
10          fornia (enacted in accordance with a waiver  
11          granted under section 209(b) of the Clean  
12          Air Act) for that make and model year vehi-  
13          cle (other than a zero emission standard).

14          “(3) *INCREMENTAL COST.*—For purposes of this  
15          subsection, the incremental cost of any new qualified  
16          alternative fuel motor vehicle is equal to the amount  
17          of the excess of the manufacturer’s suggested retail  
18          price for such vehicle over such price for a gasoline  
19          or diesel fuel motor vehicle of the same model, to the  
20          extent such amount does not exceed—

21               “(A) \$5,000, if such vehicle has a gross ve-  
22               hicle weight rating of not more than 8,500  
23               pounds,

1           “(B) \$10,000, if such vehicle has a gross ve-  
 2           hicle weight rating of more than 8,500 pounds  
 3           but not more than 14,000 pounds,

4           “(C) \$25,000, if such vehicle has a gross ve-  
 5           hicle weight rating of more than 14,000 pounds  
 6           but not more than 26,000 pounds, and

7           “(D) \$40,000, if such vehicle has a gross ve-  
 8           hicle weight rating of more than 26,000 pounds.

9           “(4) *QUALIFIED ALTERNATIVE FUEL MOTOR VE-*  
 10          *HICLE DEFINED.*—For purposes of this subsection—

11           “(A) *IN GENERAL.*—The term ‘qualified al-  
 12          ternative fuel motor vehicle’ means any motor  
 13          vehicle—

14           “(i) which is only capable of operating  
 15          on an alternative fuel,

16           “(ii) the original use of which com-  
 17          mences with the taxpayer,

18           “(iii) which is acquired by the tax-  
 19          payer for use or lease, but not for resale,  
 20          and

21           “(iv) which is made by a manufac-  
 22          turer.

23           “(B) *ALTERNATIVE FUEL.*—The term ‘alter-  
 24          native fuel’ means compressed natural gas, lique-  
 25          fied natural gas, liquefied petroleum gas, hydro-

1           *gen, and any liquid at least 85 percent of the*  
 2           *volume of which consists of methanol.*

3           “(5) *CREDIT FOR MIXED-FUEL VEHICLES.*—

4                 “(A) *IN GENERAL.*—*In the case of a mixed-*  
 5           *fuel vehicle placed in service by the taxpayer*  
 6           *during the taxable year, the credit determined*  
 7           *under this subsection is an amount equal to—*

8                         “(i) *in the case of a 75/25 mixed-fuel*  
 9                         *vehicle, 70 percent of the credit which would*  
 10                         *have been allowed under this subsection if*  
 11                         *such vehicle was a qualified alternative fuel*  
 12                         *motor vehicle, and*

13                         “(ii) *in the case of a 95/5 mixed-fuel*  
 14                         *vehicle, 95 percent of the credit which would*  
 15                         *have been allowed under this subsection if*  
 16                         *such vehicle was a qualified alternative fuel*  
 17                         *motor vehicle.*

18                 “(B) *MIXED-FUEL VEHICLE.*—*For purposes*  
 19           *of this subsection, the term ‘mixed-fuel vehicle’*  
 20           *means any motor vehicle described in subpara-*  
 21           *graph (C) or (D) of paragraph (3), which—*

22                         “(i) *is certified by the manufacturer as*  
 23                         *being able to perform efficiently in normal*  
 24                         *operation on a combination of an alter-*  
 25                         *native fuel and a petroleum-based fuel,*

1 “(ii) either—

2 “(I) has received a certificate of  
3 conformity under the Clean Air Act, or

4 “(II) has received an order from  
5 an applicable State certifying the vehi-  
6 cle for sale or lease in California and  
7 meets or exceeds the low emission vehi-  
8 cle standard under section 88.105–94  
9 of title 40, Code of Federal Regula-  
10 tions, for that make and model year  
11 vehicle,

12 “(iii) the original use of which com-  
13 mences with the taxpayer,

14 “(iv) which is acquired by the tax-  
15 payer for use or lease, but not for resale,  
16 and

17 “(v) which is made by a manufacturer.

18 “(C) 75/25 MIXED-FUEL VEHICLE.—For  
19 purposes of this subsection, the term ‘75/25  
20 mixed-fuel vehicle’ means a mixed-fuel vehicle  
21 which operates using at least 75 percent alter-  
22 native fuel and not more than 25 percent petro-  
23 leum-based fuel.

24 “(D) 95/5 MIXED-FUEL VEHICLE.—For pur-  
25 poses of this subsection, the term ‘95/5 mixed-fuel

1           *vehicle’ means a mixed-fuel vehicle which oper-*  
 2           *ates using at least 95 percent alternative fuel*  
 3           *and not more than 5 percent petroleum-based*  
 4           *fuel.*

5           “(e) *ADVANCED LEAN BURN TECHNOLOGY MOTOR VE-*  
 6           *HICLE CREDIT.*—

7           “(1) *IN GENERAL.*—For purposes of subsection  
 8           *(a), the advanced lean burn technology motor vehicle*  
 9           *credit determined under this subsection with respect*  
 10           *to a new qualified advanced lean burn technology*  
 11           *motor vehicle placed in service by the taxpayer dur-*  
 12           *ing the taxable year is the credit amount determined*  
 13           *under paragraph (2).*

14           “(2) *CREDIT AMOUNT.*—

15           “(A) *INCREASE FOR FUEL EFFICIENCY.*—  
 16           *The credit amount determined under this para-*  
 17           *graph shall be—*

18                   “(i) \$1,000, if such vehicle achieves at  
 19                   least 125 percent but less than 150 percent  
 20                   of the 2000 model year city fuel economy,

21                   “(ii) \$1,500, if such vehicle achieves at  
 22                   least 150 percent but less than 175 percent  
 23                   of the 2000 model year city fuel economy,

24                   “(iii) \$2,000, if such vehicle achieves  
 25                   at least 175 percent but less than 200 per-

1                   *cent of the 2000 model year city fuel econ-*  
2                   *omy,*

3                   “(iv) \$2,500, if such vehicle achieves at  
4                   least 200 percent but less than 225 percent  
5                   of the 2000 model year city fuel economy,

6                   “(v) \$3,000, if such vehicle achieves at  
7                   least 225 percent but less than 250 percent  
8                   of the 2000 model year city fuel economy,  
9                   and

10                  “(vi) \$3,500, if such vehicle achieves at  
11                  least 250 percent of the 2000 model year  
12                  city fuel economy.

13                  *For purposes of clause (i), the 2000 model year*  
14                  *city fuel economy with respect to a vehicle shall*  
15                  *be determined using the tables provided in sub-*  
16                  *section (b)(2)(B) with respect to such vehicle.*

17                  “(B) CONSERVATION CREDIT.—*The amount*  
18                  *determined under subparagraph (A) with respect*  
19                  *to an advanced lean burn technology motor vehi-*  
20                  *cle shall be increased by—*

21                  “(i) \$250, if such vehicle achieves a  
22                  lifetime fuel savings of at least 1,500 gallons  
23                  of gasoline, and

1                   “(ii) \$500, if such vehicle achieves a  
2                   lifetime fuel savings of at least 2,500 gallons  
3                   of gasoline.

4                   “(C) *OPTION TO USE LIKE VEHICLE.*—At  
5                   the option of the vehicle manufacturer, the in-  
6                   crease for fuel efficiency and conservation credit  
7                   may be calculated by comparing the new ad-  
8                   vanced lean-burn technology motor vehicle to a  
9                   like vehicle.

10                  “(3) *DEFINITIONS.*—For purposes of this sub-  
11                  section.—

12                   “(A) *ADVANCED LEAN BURN TECHNOLOGY*  
13                   *MOTOR VEHICLE.*—The term ‘advanced lean burn  
14                   technology motor vehicle’ means a motor vehicle  
15                   with an internal combustion engine that—

16                   “(i) is designed to operate primarily  
17                   using more air than is necessary for com-  
18                   plete combustion of the fuel,

19                   “(ii) incorporates direct injection,

20                   “(iii) achieves at least 125 percent of  
21                   the 2000 model year city fuel economy, and

22                   “(iv) for 2004 and later model vehicles,  
23                   has received a certificate that such vehicle  
24                   meets or exceeds the Bin 5, Tier 2 emission  
25                   levels (for passenger vehicles) or Bin 8, Tier



1           2 emission levels (for light trucks) estab-  
2           lished in regulations prescribed by the Ad-  
3           ministrators of the Environmental Protec-  
4           tion Agency under section 202(i) of the  
5           Clean Air Act for that make and model year  
6           vehicle.

7           “(B) *LIKE VEHICLE*.—The term ‘like vehi-  
8           cle’ for an advanced lean burn technology motor  
9           vehicle derived from a conventional production  
10          vehicle produced in the same model year means  
11          a model that is equivalent in the following areas:

12               “(i) *Body style* (2-door or 4-door),

13               “(ii) *Transmission* (automatic or man-  
14              ual),

15               “(iii) *Acceleration performance* ( $\pm$  0.05  
16              seconds).

17               “(iv) *Drivetrain* (2-wheel drive or 4-  
18              wheel drive).

19               “(v) *Certification by the Administrator*  
20              *of the Environmental Protection Agency*.

21          “(C) *LIFETIME FUEL SAVINGS*.—The term  
22          ‘lifetime fuel savings’ shall be calculated by di-  
23          viding 120,000 by the difference between the  
24          2000 model year city fuel economy for the vehicle

1            *inertia weight class and the city fuel economy*  
 2            *for the new qualified hybrid motor vehicle.*

3            “(f) *LIMITATION BASED ON AMOUNT OF TAX.*—*The*  
 4            *credit allowed under subsection (a) for the taxable year shall*  
 5            *not exceed the excess of—*

6            “(1) *the sum of the regular tax liability (as de-*  
 7            *finied in section 26(b)) plus the tax imposed by section*  
 8            *55, over*

9            “(2) *the sum of the credits allowable under sub-*  
 10            *part A and sections 27, 29, and 30A for the taxable*  
 11            *year.*

12            “(g) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*  
 13            *purposes of this section—*

14            “(1) *CONSUMABLE FUEL.*—*The term ‘consumable*  
 15            *fuel’ means any solid, liquid, or gaseous matter which*  
 16            *releases energy when consumed by an auxiliary power*  
 17            *unit.*

18            “(2) *MOTOR VEHICLE.*—*The term ‘motor vehicle’*  
 19            *has the meaning given such term by section 30(c)(2).*

20            “(3) *2000 MODEL YEAR CITY FUEL ECONOMY.*—  
 21            *The 2000 model year city fuel economy with respect*  
 22            *to any vehicle shall be measured under rules similar*  
 23            *to the rules under section 4064(c).*

24            “(4) *OTHER TERMS.*—*The terms ‘automobile’,*  
 25            *‘passenger automobile’, ‘light truck’, and ‘manufac-*

1 *turer' have the meanings given such terms in regula-*  
 2 *tions prescribed by the Administrator of the Environ-*  
 3 *mental Protection Agency for purposes of the admin-*  
 4 *istration of title II of the Clean Air Act (42 U.S.C.*  
 5 *7521 et seq.).*

6 “(5) *REDUCTION IN BASIS.*—*For purposes of this*  
 7 *subtitle, the basis of any property for which a credit*  
 8 *is allowable under subsection (a) shall be reduced by*  
 9 *the amount of such credit so allowed.*

10 “(6) *NO DOUBLE BENEFIT.*—*The amount of any*  
 11 *deduction or credit allowable under this chapter*  
 12 *(other than the credit allowable under this section)—*

13 “(A) *for any incremental cost taken into ac-*  
 14 *count in computing the amount of the credit de-*  
 15 *termined under subsection (d) shall be reduced*  
 16 *by the amount of such credit attributable to such*  
 17 *cost, and*

18 “(B) *with respect to a vehicle described*  
 19 *under subsection (b) or (c), shall be reduced by*  
 20 *the amount of credit allowed under subsection*  
 21 *(a) for such vehicle for the taxable year.*

22 “(7) *PROPERTY USED BY TAX-EXEMPT ENTI-*  
 23 *TIES.*—*In the case of a credit amount which is allow-*  
 24 *able with respect to a motor vehicle which is acquired*  
 25 *by an entity exempt from tax under this chapter, the*

1     *person which sells or leases such vehicle to the entity*  
2     *shall be treated as the taxpayer with respect to the ve-*  
3     *hicle for purposes of this section and the credit shall*  
4     *be allowed to such person, but only if the person*  
5     *clearly discloses to the entity in any sale or lease doc-*  
6     *ument the specific amount of any credit otherwise al-*  
7     *lowable to the entity under this section and reduces*  
8     *the sale or lease price of such vehicle by an equivalent*  
9     *amount of such credit.*

10         “(8) *RECAPTURE.*—*The Secretary shall, by regu-*  
11     *lations, provide for recapturing the benefit of any*  
12     *credit allowable under subsection (a) with respect to*  
13     *any property which ceases to be property eligible for*  
14     *such credit (including recapture in the case of a lease*  
15     *period of less than the economic life of a vehicle).*

16         “(9) *PROPERTY USED OUTSIDE UNITED STATES,*  
17     *ETC., NOT QUALIFIED.*—*No credit shall be allowed*  
18     *under subsection (a) with respect to any property re-*  
19     *ferred to in section 50(b) or with respect to the por-*  
20     *tion of the cost of any property taken into account*  
21     *under section 179.*

22         “(10) *ELECTION TO NOT TAKE CREDIT.*—*No*  
23     *credit shall be allowed under subsection (a) for any*  
24     *vehicle if the taxpayer elects to not have this section*  
25     *apply to such vehicle.*

1 “(11) *CARRYFORWARD ALLOWED.*—

2 “(A) *IN GENERAL.*—*If the credit amount al-*  
 3 *lowable under subsection (a) for a taxable year*  
 4 *exceeds the amount of the limitation under sub-*  
 5 *section (f) for such taxable year (referred to as*  
 6 *the ‘unused credit year’ in this paragraph), such*  
 7 *excess shall be allowed as a credit carryforward*  
 8 *for each of the 20 taxable years following the un-*  
 9 *used credit year.*

10 “(B) *RULES.*—*Rules similar to the rules of*  
 11 *section 39 shall apply with respect to the credit*  
 12 *carryforward under subparagraph (A).*

13 “(12) *INTERACTION WITH AIR QUALITY AND*  
 14 *MOTOR VEHICLE SAFETY STANDARDS.*—*Unless other-*  
 15 *wise provided in this section, a motor vehicle shall*  
 16 *not be considered eligible for a credit under this sec-*  
 17 *tion unless such vehicle is in compliance with—*

18 “(A) *the applicable provisions of the Clean*  
 19 *Air Act for the applicable make and model year*  
 20 *of the vehicle (or applicable air quality provi-*  
 21 *sions of State law in the case of a State which*  
 22 *has adopted such provision under a waiver*  
 23 *under section 209(b) of the Clean Air Act), and*

1                   “(B) the motor vehicle safety provisions of  
2                   sections 30101 through 30169 of title 49, United  
3                   States Code.

4                   “(h) REGULATIONS.—

5                   “(1) IN GENERAL.—The Secretary shall promul-  
6                   gate such regulations as necessary to carry out the  
7                   provisions of this section.

8                   “(2) ADMINISTRATOR OF ENVIRONMENTAL PRO-  
9                   TECTION AGENCY.—The Administrator of the Envi-  
10                  ronmental Protection Agency, in coordination with  
11                  the Secretary of Transportation and the Secretary of  
12                  the Treasury, shall prescribe such regulations as nec-  
13                  essary to determine whether a motor vehicle meets the  
14                  requirements to be eligible for a credit under this sec-  
15                  tion.

16                  “(i) TERMINATION.—This section shall not apply to  
17                  any property placed in service after—

18                  “(1) in the case of a new qualified fuel cell motor  
19                  vehicle (as described in subsection (b)), December 31,  
20                  2011, and

21                  “(2) in the case of any other property, December  
22                  31, 2007.”.

23                  (b) CONFORMING AMENDMENTS.—

24                  (1) Section 1016(a) is amended by striking  
25                  “and” at the end of paragraph (29), by striking the

1       period at the end of paragraph (30) and inserting “,  
2       and”, and by adding at the end the following:

3               “(31) to the extent provided in section  
4       30B(g)(5).”.

5               (2) Section 6501(m) is amended by inserting  
6       “30B(g)(10),” after “30(d)(4),”.

7               (3) The table of sections for subpart B of part IV  
8       of subchapter A of chapter 1 is amended by inserting  
9       after the item relating to section 30A the following:

              “Sec. 30B. Alternative motor vehicle credit.”.

10       (c) *EFFECTIVE DATE.*—The amendments made by this  
11       section shall apply to property placed in service after De-  
12       cember 31, 2001, in taxable years ending after such date.

13       **SEC. 105. EXTENSION OF DEDUCTION FOR CERTAIN RE-**  
14       **FUELING PROPERTY.**

15       (a) *IN GENERAL.*—Section 179A(f) (relating to termi-  
16       nation) is amended by striking “2004” and inserting  
17       “2007”.

18       (b) *MODIFICATION OF PHASEOUT.*—Subparagraph (B)  
19       of section 179A(b)(1) is amended—

20               (1) in clause (i), by striking “2002” and insert-  
21       ing “2005”,

22               (2) in clause (ii), by striking “2003” and insert-  
23       ing “2006”, and

24               (3) in clause (iii), by striking “2004” and in-  
25       serting “2007”.

1 **SEC. 106. MODIFICATION OF CREDIT FOR QUALIFIED ELEC-**  
 2 **TRIC VEHICLES.**

3 (a) *AMOUNT OF CREDIT.*—

4 (1) *IN GENERAL.*—Section 30(a) (relating to al-  
 5 lowance of credit) is amended by striking “10 percent  
 6 of”.

7 (2) *LIMITATION OF CREDIT ACCORDING TO TYPE*  
 8 *OF VEHICLE.*—Section 30(b) (relating to limitations)  
 9 is amended—

10 (A) by striking paragraphs (1) and (2) and  
 11 inserting the following:

12 “(1) *LIMITATION ACCORDING TO TYPE OF VEHI-*  
 13 *CLE.*—The amount of the credit allowed under sub-  
 14 section (a) for any vehicle shall not exceed the greatest  
 15 of the following amounts applicable to such vehicle:

16 “(A) *In the case of a vehicle which conforms*  
 17 *to the Motor Vehicle Safety Standard 500 pre-*  
 18 *scribed by the Secretary of Transportation, the*  
 19 *lesser of—*

20 “(i) 10 percent of the manufacturer’s  
 21 suggested retail price of the vehicle, or

22 “(ii) \$4,000.

23 “(B) *In the case of a vehicle not described*  
 24 *in subparagraph (A) with a gross vehicle weight*  
 25 *rating not exceeding 8,500 pounds—*

26 “(i) \$4,000, or



1 “(ii) \$5,000, if such vehicle is—

2 “(I) capable of a driving range of  
3 at least 70 miles on a single charge of  
4 the vehicle’s rechargeable batteries and  
5 measured pursuant to the urban dyna-  
6 mometer schedules under appendix I to  
7 part 86 of title 40, Code of Federal  
8 Regulations, or

9 “(II) capable of a payload capac-  
10 ity of at least 1,000 pounds.

11 “(C) In the case of a vehicle with a gross  
12 vehicle weight rating exceeding 8,500 pounds but  
13 not exceeding 14,000 pounds, \$10,000.

14 “(D) In the case of a vehicle with a gross  
15 vehicle weight rating exceeding 14,000 pounds  
16 but not exceeding 26,000 pounds, \$20,000.

17 “(E) In the case of a vehicle with a gross  
18 vehicle weight rating exceeding 26,000 pounds,  
19 \$40,000.”, and

20 (B) by redesignating paragraph (3) as  
21 paragraph (2).

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 53(d)(1)(B)(iii) is amended by  
24 striking “section 30(b)(3)(B)” and inserting  
25 “section 30(b)(2)(B)”.

1                   (B) Section 55(c)(2) is amended by striking  
2                   “30(b)(3)” and inserting “30(b)(2)”.

3                   (b) *QUALIFIED BATTERY ELECTRIC VEHICLE*.—

4                   (1) *IN GENERAL*.—Section 30(c)(1)(A) (defining  
5                   *qualified electric vehicle*) is amended to read as fol-  
6                   *lows*:

7                   “(A) which is—

8                   “(i) operated solely by use of a battery  
9                   or battery pack, or

10                   “(ii) powered primarily through the  
11                   use of an electric battery or battery pack  
12                   using a flywheel or capacitor which stores  
13                   energy produced by an electric motor  
14                   through regenerative braking to assist in ve-  
15                   hicle operation,”.

16                   (2) *LEASED VEHICLES*.—Section 30(c)(1)(C) is  
17                   amended by inserting “or lease” after “use”.

18                   (3) *CONFORMING AMENDMENTS*.—

19                   (A) Subsections (a) and (c) of section 30 are  
20                   each amended by inserting “battery” after  
21                   “qualified” each place it appears.

22                   (B) The heading of subsection (c) of section  
23                   30 is amended by inserting “BATTERY” after  
24                   “QUALIFIED”.

1           (C) *The heading of section 30 is amended*  
 2           *by inserting “**BATTERY**” after “**QUALIFIED**”.*

3           (D) *The item relating to section 30 in the*  
 4           *table of sections for subpart B of part IV of sub-*  
 5           *chapter A of chapter 1 is amended by inserting*  
 6           *“battery” after “qualified”.*

7           (E) *Section 179A(c)(3) is amended by in-*  
 8           *serting “battery” before “electric”.*

9           (F) *The heading of paragraph (3) of section*  
 10           *179A(c) is amended by inserting “BATTERY” be-*  
 11           *fore “ELECTRIC”.*

12           (c) *ADDITIONAL SPECIAL RULES.—Section 30(d) (re-*  
 13           *lating to special rules) is amended by adding at the end*  
 14           *the following:*

15           “(5) *NO DOUBLE BENEFIT.—The amount of any*  
 16           *deduction or credit allowable under this chapter for*  
 17           *any cost taken into account in computing the amount*  
 18           *of the credit determined under subsection (a) shall be*  
 19           *reduced by the amount of such credit attributable to*  
 20           *such cost.*

21           “(6) *PROPERTY USED BY TAX-EXEMPT ENTI-*  
 22           *TIES.—In the case of a credit amount which is allow-*  
 23           *able with respect to a vehicle which is acquired by an*  
 24           *entity exempt from tax under this chapter, the person*  
 25           *which sells or leases such vehicle to the entity shall be*

1       *treated as the taxpayer with respect to the vehicle for*  
 2       *purposes of this section and the credit shall be allowed*  
 3       *to such person, but only if the person clearly discloses*  
 4       *to the entity in any sale or lease contract the specific*  
 5       *amount of any credit otherwise allowable to the entity*  
 6       *under this section and reduces the sale or lease price*  
 7       *of such vehicle by an equivalent amount of such cred-*  
 8       *it.*

9               “(7) *CARRYFORWARD ALLOWED.*—

10               “(A) *IN GENERAL.*—*If the credit amount al-*  
 11               *lowable under subsection (a) for a taxable year*  
 12               *exceeds the amount of the limitation under sub-*  
 13               *section (b)(3) for such taxable year, such excess*  
 14               *shall be allowed as a credit carryforward for*  
 15               *each of the 20 taxable years following such tax-*  
 16               *able year.*

17               “(B) *RULES.*—*Rules similar to the rules of*  
 18               *section 39 shall apply with respect to the credit*  
 19               *carryforward under subparagraph (A).”*

20               “(d) *EXTENSION.*—*Section 30(e) (relating to termi-*  
 21               *nation) is amended by striking “2004” and inserting*  
 22               *“2007”.*

23               “(e) *EFFECTIVE DATE.*—*The amendments made by this*  
 24               *section shall apply to property placed in service after De-*  
 25               *cember 31, 2001, in taxable years ending after such date.*

1 **SEC. 107. TAX CREDIT FOR ENERGY EFFICIENT APPLI-**  
 2 **ANCES.**

3 (a) *IN GENERAL.*—Subpart D of part IV of subchapter  
 4 A of chapter 1 (relating to business-related credits) is  
 5 amended by adding at the end the following new section:

6 **“SEC. 45G. ENERGY EFFICIENT APPLIANCE CREDIT.**

7 “(a) *GENERAL RULE.*—For purposes of section 38, the  
 8 energy efficient appliance credit determined under this sec-  
 9 tion for the taxable year is an amount equal to the applica-  
 10 ble amount determined under subsection (b) with respect  
 11 to the eligible production of qualified energy efficient appli-  
 12 ances produced by the taxpayer during the calendar year  
 13 ending with or within the taxable year.

14 “(b) *APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.*—  
 15 For purposes of subsection (a)—

16 “(1) *APPLICABLE AMOUNT.*—The applicable  
 17 amount is—

18 “(A) \$50 in the case of an energy efficient  
 19 clothes washer described in subsection (d)(2)(A)  
 20 or an energy efficient refrigerator described in  
 21 subsection (d)(3)(B)(i), and

22 “(B) \$100 in the case of any other energy  
 23 efficient clothes washer or energy efficient refrig-  
 24 erator.

25 “(2) *ELIGIBLE PRODUCTION.*—

1           “(A) *IN GENERAL.*—*The eligible production*  
 2           *of each category of qualified energy efficient ap-*  
 3           *pliances is the excess of—*

4                   “(i) *the number of appliances in such*  
 5                   *category which are produced by the tax-*  
 6                   *payer during such calendar year, over*

7                   “(ii) *the average number of appliances*  
 8                   *in such category which were produced by*  
 9                   *the taxpayer during calendar years 1998,*  
 10                  *1999, and 2000.*

11           “(B) *CATEGORIES.*—*For purposes of sub-*  
 12           *paragraph (A), the categories are—*

13                   “(i) *energy efficient clothes washers de-*  
 14                   *scribed in subsection (d)(2)(A),*

15                   “(ii) *energy efficient clothes washers*  
 16                   *described in subsection (d)(2)(B),*

17                   “(iii) *energy efficient refrigerators de-*  
 18                   *scribed in subsection (d)(3)(B)(i), and*

19                   “(iv) *energy efficient refrigerators de-*  
 20                   *scribed in subsection (d)(3)(B)(ii).*

21           “(C) *SPECIAL RULE FOR 2001 PRODUC-*  
 22           *TION.*—*For purposes of determining eligible pro-*  
 23           *duction for calendar year 2001—*

24                   “(i) *only production after the date of*  
 25                   *the enactment of this section shall be taken*

1           into account under subparagraph (A)(i),  
 2           and

3           “(ii) the amount taken into account  
 4           under subparagraph (A)(ii) shall be an  
 5           amount which bears the same ratio to the  
 6           amount which would (but for this subpara-  
 7           graph) be taken into account under sub-  
 8           paragraph (A)(ii) as—

9                       “(I) the number of days in cal-  
 10                      endar year 2001 after the date of the  
 11                      enactment of this section, bears to

12                      “(II) 365.

13       “(c) *LIMITATION ON MAXIMUM CREDIT.*—

14               “(1) *IN GENERAL.*—The maximum amount of  
 15               credit allowed under subsection (a) with respect to a  
 16               taxpayer for all taxable years shall be—

17                      “(A) \$30,000,000 with respect to the credit  
 18                      determined under subsection (b)(1)(A), and

19                      “(B) \$30,000,000 with respect to the credit  
 20                      determined under subsection (b)(1)(B).

21       “(2) *LIMITATION BASED ON GROSS RECEIPTS.*—

22               The credit allowed under subsection (a) with respect  
 23               to a taxpayer for the taxable year shall not exceed an  
 24               amount equal to 2 percent of the average annual gross  
 25               receipts of the taxpayer for the 3 taxable years pre-

1       ceding the taxable year in which the credit is deter-  
 2       mined.

3               “(3) *GROSS RECEIPTS.*—For purposes of this  
 4       subsection, the rules of paragraphs (2) and (3) of sec-  
 5       tion 448(c) shall apply.

6               “(d) *QUALIFIED ENERGY EFFICIENT APPLIANCE.*—  
 7       For purposes of this section:

8               “(1) *IN GENERAL.*—The term ‘qualified energy  
 9       efficient appliance’ means—

10               “(A) an energy efficient clothes washer, or

11               “(B) an energy efficient refrigerator.

12               “(2) *ENERGY EFFICIENT CLOTHES WASHER.*—  
 13       The term ‘energy efficient clothes washer’ means a  
 14       residential clothes washer, including a residential  
 15       style coin operated washer, which is manufactured  
 16       with—

17               “(A) a 1.26 MEF or greater, or

18               “(B) a 1.42 MEF (1.5 MEF for washers  
 19       produced after 2004) or greater.

20               “(3) *ENERGY EFFICIENT REFRIGERATOR.*—The  
 21       term ‘energy efficient refrigerator’ means an auto-  
 22       matic defrost refrigerator-freezer which—

23               “(A) has an internal volume of at least 16.5  
 24       cubic feet, and

25               “(B) consumes—



1                   “(i) 10 percent less kw/hr/yr than the  
 2                   energy conservation standards promulgated  
 3                   by the Department of Energy for refrigerators  
 4                   produced during 2001, and

5                   “(ii) 15 percent less kw/hr/yr than  
 6                   such energy conservation standards for refrigerators  
 7                   produced after 2001.

8                   “(4) *MEF*.—The term ‘MEF’ means Modified  
 9                   Energy Factor (as determined by the Secretary of Energy).  
 10                  energy).

11                  “(e) *SPECIAL RULES*.—

12                   “(1) *IN GENERAL*.—Rules similar to the rules of  
 13                   subsections (c), (d), and (e) of section 52 shall apply  
 14                   for purposes of this section.

15                   “(2) *AGGREGATION RULES*.—All persons treated  
 16                   as a single employer under subsection (a) or (b) of  
 17                   section 52 or subsection (m) or (o) of section 414 shall  
 18                   be treated as 1 person for purposes of subsection (a).

19                   “(f) *VERIFICATION*.—The taxpayer shall submit such  
 20                   information or certification as the Secretary, in consultation  
 21                   with the Secretary of Energy, determines necessary to  
 22                   claim the credit amount under subsection (a).

23                   “(g) *TERMINATION*.—This section shall not apply—

1           “(1) with respect to energy efficient refrigerators  
2           described in subsection (d)(3)(B)(i) produced after  
3           2004, and

4           “(2) with respect to all other qualified energy ef-  
5           ficient appliances produced after 2006.”.

6           (b) *LIMITATION ON CARRYBACK.*—Section 39(d) (relat-  
7           ing to transition rules) is amended by adding at the end  
8           the following new paragraph:

9           “(11) *NO CARRYBACK OF ENERGY EFFICIENT AP-*  
10          *PLIANCE CREDIT BEFORE EFFECTIVE DATE.*—No por-  
11          tion of the unused business credit for any taxable year  
12          which is attributable to the energy efficient appliance  
13          credit determined under section 45G may be carried  
14          to a taxable year ending before the date of the enact-  
15          ment of section 45G.”.

16          (c) *CONFORMING AMENDMENT.*—Section 38(b) (relat-  
17          ing to general business credit) is amended by striking  
18          “plus” at the end of paragraph (14), by striking the period  
19          at the end of paragraph (15) and inserting “, plus”, and  
20          by adding at the end the following new paragraph:

21          “(16) the energy efficient appliance credit deter-  
22          mined under section 45G(a).”.

23          (d) *CLERICAL AMENDMENT.*—The table of sections for  
24          subpart D of part IV of subchapter A of chapter 1 is amend-

1 *ed by inserting after the item relating to section 45F the*  
 2 *following new item:*

*“Sec. 45G. Energy efficient appliance credit.”.*

3 *(e) EFFECTIVE DATE.—The amendments made by this*  
 4 *section shall apply to taxable years ending after the date*  
 5 *of the enactment of this Act.*

6 **SEC. 108. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
 7 **MENTS TO EXISTING HOMES.**

8 *(a) IN GENERAL.—Subpart A of part IV of subchapter*  
 9 *A of chapter 1 (relating to nonrefundable personal credits)*  
 10 *is amended by inserting after section 25D the following new*  
 11 *section:*

12 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
 13 **ING HOMES.**

14 *“(a) ALLOWANCE OF CREDIT.—In the case of an indi-*  
 15 *vidual, there shall be allowed as a credit against the tax*  
 16 *imposed by this chapter for the taxable year an amount*  
 17 *equal to 20 percent of the amount paid or incurred by the*  
 18 *taxpayer for qualified energy efficiency improvements in-*  
 19 *stalled during such taxable year.*

20 *“(b) LIMITATIONS.—*

21 *“(1) MAXIMUM CREDIT.—The credit allowed by*  
 22 *this section with respect to a dwelling shall not exceed*  
 23 *\$2,000.*

24 *“(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON*  
 25 *SAME DWELLING TAKEN INTO ACCOUNT.—If a credit*

1        *was allowed to the taxpayer under subsection (a) with*  
 2        *respect to a dwelling in 1 or more prior taxable years,*  
 3        *the amount of the credit otherwise allowable for the*  
 4        *taxable year with respect to that dwelling shall not*  
 5        *exceed the amount of \$2,000 reduced by the sum of the*  
 6        *credits allowed under subsection (a) to the taxpayer*  
 7        *with respect to the dwelling for all prior taxable*  
 8        *years.*

9                *“(3) LIMITATION BASED ON AMOUNT OF TAX.—*  
 10        *The credit allowed under subsection (a) for the tax-*  
 11        *able year shall not exceed the excess of—*

12                *“(A) the sum of the regular tax liability (as*  
 13                *defined in section 26(b)) plus the tax imposed by*  
 14                *section 55, over*

15                *“(B) the sum of the credits allowable under*  
 16                *this subpart (other than this section and section*  
 17                *23) and section 27 for the taxable year.*

18        *“(c) CARRYFORWARD OF UNUSED CREDIT.—If the*  
 19        *credit allowable under subsection (a) exceeds the limitation*  
 20        *imposed by subsection (b)(3) for such taxable year, such ex-*  
 21        *cess shall be carried to the succeeding taxable year and*  
 22        *added to the credit allowable under subsection (a) for such*  
 23        *succeeding taxable year.*

24        *“(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-*  
 25        *MENTS.—For purposes of this section, the term ‘qualified*

1 *energy efficiency improvements’ means any energy efficient*  
2 *building envelope component which meets the prescriptive*  
3 *criteria for such component established by the 1998 Inter-*  
4 *national Energy Conservation Code, if—*

5           “(1) *such component is installed in or on a*  
6 *dwelling—*

7                   “(A) *located in the United States, and*

8                   “(B) *owned and used by the taxpayer as the*  
9 *taxpayer’s principal residence (within the mean-*  
10 *ing of section 121),*

11           “(2) *the original use of such component com-*  
12 *mences with the taxpayer, and*

13           “(3) *such component reasonably can be expected*  
14 *to remain in use for at least 5 years.*

15 *If the aggregate cost of such components with respect to any*  
16 *dwelling exceeds \$1,000, such components shall be treated*  
17 *as qualified energy efficiency improvements only if such*  
18 *components are also certified in accordance with subsection*  
19 *(e) as meeting such criteria.*

20           “(e) *CERTIFICATION.—The certification described in*  
21 *subsection (d) shall be—*

22                   “(1) *determined on the basis of the technical*  
23 *specifications or applicable ratings (including prod-*  
24 *uct labeling requirements) for the measurement of en-*  
25 *ergy efficiency, based upon energy use or building en-*

1      *velope component performance, for the energy efficient*  
 2      *building envelope component,*

3           “(2) *provided by a local building regulatory au-*  
 4      *thority, a utility, a manufactured home production*  
 5      *inspection primary inspection agency (IPIA), or an*  
 6      *accredited home energy rating system provider who is*  
 7      *accredited by or otherwise authorized to use approved*  
 8      *energy performance measurement methods by the*  
 9      *Home Energy Ratings Systems Council or the Na-*  
 10     *tional Association of State Energy Officials, and*

11           “(3) *made in writing in a manner that specifies*  
 12     *in readily verifiable fashion the energy efficient build-*  
 13     *ing envelope components installed and their respective*  
 14     *energy efficiency levels.*

15     “(f) *DEFINITIONS AND SPECIAL RULES.—*

16           “(1) *TENANT-STOCKHOLDER IN COOPERATIVE*  
 17     *HOUSING CORPORATION.—In the case of an indi-*  
 18     *vidual who is a tenant-stockholder (as defined in sec-*  
 19     *tion 216) in a cooperative housing corporation (as de-*  
 20     *fined in such section), such individual shall be treated*  
 21     *as having paid his tenant-stockholder’s proportionate*  
 22     *share (as defined in section 216(b)(3)) of the cost of*  
 23     *qualified energy efficiency improvements made by*  
 24     *such corporation.*

25           “(2) *CONDOMINIUMS.—*

1           “(A) *IN GENERAL.*—*In the case of an indi-*  
2           *vidual who is a member of a condominium man-*  
3           *agement association with respect to a condo-*  
4           *minium which he owns, such individual shall be*  
5           *treated as having paid his proportionate share of*  
6           *the cost of qualified energy efficiency improve-*  
7           *ments made by such association.*

8           “(B) *CONDOMINIUM MANAGEMENT ASSOCIA-*  
9           *TION.*—*For purposes of this paragraph, the term*  
10          *‘condominium management association’ means*  
11          *an organization which meets the requirements of*  
12          *paragraph (1) of section 528(c) (other than sub-*  
13          *paragraph (E) thereof) with respect to a condo-*  
14          *minium project substantially all of the units of*  
15          *which are used as residences.*

16          “(3) *BUILDING ENVELOPE COMPONENT.*—*The*  
17          *term ‘building envelope component’ means insulation*  
18          *material or system which is specifically and pri-*  
19          *marily designed to reduce the heat loss or gain of a*  
20          *dwelling when installed in or on such dwelling, exte-*  
21          *rior windows (including skylights) and doors, and*  
22          *metal roofs with appropriate pigmented coatings*  
23          *which are specifically and primarily designed to re-*  
24          *duce the heat gain of a dwelling when installed in or*  
25          *on such dwelling.*

1           “(4) *MANUFACTURED HOMES INCLUDED.*—For  
 2           *purposes of this section, the term ‘dwelling’ includes*  
 3           *a manufactured home which conforms to Federal*  
 4           *Manufactured Home Construction and Safety Stand-*  
 5           *ards (24 C.F.R. 3280).*

6           “(g) *BASIS ADJUSTMENT.*—For purposes of this sub-  
 7           *title, if a credit is allowed under this section for any ex-*  
 8           *penditure with respect to any property, the increase in the*  
 9           *basis of such property which would (but for this subsection)*  
 10           *result from such expenditure shall be reduced by the amount*  
 11           *of the credit so allowed.*

12           “(h) *APPLICATION OF SECTION.*—This section shall  
 13           *apply to qualified energy efficiency improvements installed*  
 14           *after December 31, 2001 and before January 1, 2007.”.*

15           (b) *CONFORMING AMENDMENTS.*—

16           (1) *Subsection (a) of section 1016 is amended by*  
 17           *striking “and” at the end of paragraph (30), by strik-*  
 18           *ing the period at the end of paragraph (31) and in-*  
 19           *serting “, and”, and by adding at the end the fol-*  
 20           *lowing new paragraph:*

21           “(32) *to the extent provided in section 25E(g), in*  
 22           *the case of amounts with respect to which a credit has*  
 23           *been allowed under section 25E.”.*

24           (2) *The table of sections for subpart A of part IV*  
 25           *of subchapter A of chapter 1 is amended by inserting*



1       *after the item relating to section 25D the following*  
 2       *new item:*

*“Sec. 25E. Energy efficiency improvements to existing homes.”.*

3       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 4       *section shall apply to taxable years ending after December*  
 5       *31, 2001.*

6       **SEC. 109. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**  
 7               **ENERGY EFFICIENT HOME.**

8       (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*  
 9       *A of chapter 1 (relating to business related credits) is*  
 10       *amended by inserting after section 45G the following new*  
 11       *section:*

12       **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

13       “(a) *IN GENERAL.*—*For purposes of section 38, in the*  
 14       *case of an eligible contractor, the credit determined under*  
 15       *this section for the taxable year is an amount equal to the*  
 16       *aggregate adjusted bases of all energy efficient property in-*  
 17       *stalled in a qualified new energy efficient home during con-*  
 18       *struction of such home.*

19       “(b) *LIMITATIONS.*—

20               “(1) *MAXIMUM CREDIT.*—

21                       “(A) *IN GENERAL.*—*The credit allowed by*  
 22                       *this section with respect to a dwelling shall not*  
 23                       *exceed \$2,000.*

24                       “(B) *PRIOR CREDIT AMOUNTS ON SAME*  
 25                       *DWELLING TAKEN INTO ACCOUNT.*—*If a credit*

1        *was allowed under subsection (a) with respect to*  
 2        *a dwelling in 1 or more prior taxable years, the*  
 3        *amount of the credit otherwise allowable for the*  
 4        *taxable year with respect to that dwelling shall*  
 5        *not exceed the amount of \$2,000 reduced by the*  
 6        *sum of the credits allowed under subsection (a)*  
 7        *with respect to the dwelling for all prior taxable*  
 8        *years.*

9        *“(2) COORDINATION WITH REHABILITATION AND*  
 10       *ENERGY CREDITS.—For purposes of this section—*

11            *“(A) the basis of any property referred to in*  
 12            *subsection (a) shall be reduced by that portion of*  
 13            *the basis of any property which is attributable to*  
 14            *qualified rehabilitation expenditures (as defined*  
 15            *in section 47(c)(2)) or to the energy percentage*  
 16            *of energy property (as determined under section*  
 17            *48(a)), and*

18            *“(B) expenditures taken into account under*  
 19            *either section 47 or 48(a) shall not be taken into*  
 20            *account under this section.*

21        *“(c) DEFINITIONS.—For purposes of this section—*

22            *“(1) ELIGIBLE CONTRACTOR.—The term ‘eligible*  
 23            *contractor’ means the person who constructed the new*  
 24            *energy efficient home, or in the case of a manufac-*  
 25            *tured home which conforms to Federal Manufactured*

1       *Home Construction and Safety Standards (24 C.F.R.*  
2       *3280), the manufactured home producer of such home.*

3               “(2) *ENERGY EFFICIENT PROPERTY.*—*The term*  
4       *‘energy efficient property’ means any energy efficient*  
5       *building envelope component, and any energy effi-*  
6       *cient heating or cooling appliance.*

7               “(3) *QUALIFIED NEW ENERGY EFFICIENT*  
8       *HOME.*—*The term ‘qualified new energy efficient*  
9       *home’ means a dwelling—*

10              “(A) *located in the United States,*

11              “(B) *the construction of which is substan-*  
12       *tially completed after December 31, 2001,*

13              “(C) *the original use of which is as a prin-*  
14       *cipal residence (within the meaning of section*  
15       *121) which commences with the person who ac-*  
16       *quires such dwelling from the eligible contractor,*  
17       *and*

18              “(D) *which is certified to have a level of an-*  
19       *nuual heating and cooling energy consumption*  
20       *that is at least 30 percent below the annual level*  
21       *of heating and cooling energy consumption of a*  
22       *comparable dwelling constructed in accordance*  
23       *with the standards of the 1998 International En-*  
24       *ergy Conservation Code.*

1           “(4) *CONSTRUCTION.*—*The term ‘construction’*  
2           *includes reconstruction and rehabilitation.*

3           “(5) *ACQUIRE.*—*The term ‘acquire’ includes pur-*  
4           *chase and, in the case of reconstruction and rehabili-*  
5           *tation, such term includes a binding written contract*  
6           *for such reconstruction or rehabilitation.*

7           “(6) *BUILDING ENVELOPE COMPONENT.*—*The*  
8           *term ‘building envelope component’ means insulation*  
9           *material or system which is specifically and pri-*  
10           *marily designed to reduce the heat loss or gain of a*  
11           *dwelling when installed in or on such dwelling, exte-*  
12           *rior windows (including skylights) and doors, and*  
13           *metal roofs with appropriate pigmented coatings*  
14           *which are specifically and primarily designed to re-*  
15           *duce the heat gain of a dwelling when installed in or*  
16           *on such dwelling.*

17           “(7) *MANUFACTURED HOME INCLUDED.*—*The*  
18           *term ‘dwelling’ includes a manufactured home con-*  
19           *forming to Federal Manufactured Home Construction*  
20           *and Safety Standards (24 C.F.R. 3280).*

21           “(d) *CERTIFICATION.*—

22           “(1) *METHOD.*—*A certification described in sub-*  
23           *section (c)(3)(D) shall be determined on the basis of*  
24           *one of the following methods:*

1           “(A) *The technical specifications or appli-*  
2           *cable ratings (including product labeling require-*  
3           *ments) for the measurement of energy efficiency*  
4           *for the energy efficient building envelope compo-*  
5           *nent or energy efficient heating or cooling appli-*  
6           *ance, based upon energy use or building envelope*  
7           *component performance.*

8           “(B) *An energy performance measurement*  
9           *method that utilizes computer software approved*  
10          *by organizations designated by the Secretary.*

11          “(2) *PROVIDER.—Such certification shall be pro-*  
12          *vided by—*

13               “(A) *in the case of a method described in*  
14               *paragraph (1)(A), a local building regulatory*  
15               *authority, a utility, a manufactured home pro-*  
16               *duction inspection primary inspection agency*  
17               *(IPIA), or an accredited home energy rating sys-*  
18               *tems provider who is accredited by, or otherwise*  
19               *authorized to use, approved energy performance*  
20               *measurement methods by the Home Energy Rat-*  
21               *ings Systems Council or the National Associa-*  
22               *tion of State Energy Officials, or*

23               “(B) *in the case of a method described in*  
24               *paragraph (1)(B), an individual recognized by*

1           *an organization designated by the Secretary for*  
2           *such purposes.*

3           “(3) *FORM.*—*Such certification shall be made in*  
4           *writing in a manner that specifies in readily*  
5           *verifiable fashion the energy efficient building enve-*  
6           *lope components and energy efficient heating or cool-*  
7           *ing appliances installed and their respective energy*  
8           *efficiency levels, and in the case of a method described*  
9           *in subparagraph (B) of paragraph (1), accompanied*  
10          *by written analysis documenting the proper applica-*  
11          *tion of a permissible energy performance measure-*  
12          *ment method to the specific circumstances of such*  
13          *dwelling.*

14          “(4) *REGULATIONS.*—

15                 “(A) *IN GENERAL.*—*In prescribing regula-*  
16                 *tions under this subsection for energy perform-*  
17                 *ance measurement methods, the Secretary shall*  
18                 *prescribe procedures for calculating annual en-*  
19                 *ergy costs for heating and cooling and cost sav-*  
20                 *ings and for the reporting of the results. Such*  
21                 *regulations shall—*

22                         “(i) *be based on the National Home*  
23                         *Energy Rating Technical Guidelines of the*  
24                         *National Association of State Energy Offi-*  
25                         *cials, the Home Energy Rating Guidelines*

1           *of the Home Energy Rating Systems Coun-*  
2           *cil, or the modified 1998 California Resi-*  
3           *dential ACM manual,*

4           “(ii) provide that any calculation pro-  
5           cedures be developed such that the same en-  
6           ergy efficiency measures allow a home to  
7           qualify for the credit under this section re-  
8           gardless of whether the house uses a gas or  
9           oil furnace or boiler or an electric heat  
10          pump, and

11          “(iii) require that any computer soft-  
12          ware allow for the printing of the Federal  
13          tax forms necessary for the credit under this  
14          section and explanations for the homebuyer  
15          of the energy efficient features that were  
16          used to comply with the requirements of this  
17          section.

18          “(B) PROVIDERS.—For purposes of para-  
19          graph (2)(B), the Secretary shall establish re-  
20          quirements for the designation of individuals  
21          based on the requirements for energy consultants  
22          and home energy raters specified by the National  
23          Association of State Energy Officials.

24          “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
25          title, if a credit is allowed under this section for any ex-

1 *penditure with respect to any property, the increase in the*  
 2 *basis of such property which would (but for this subsection)*  
 3 *result from such expenditure shall be reduced by the amount*  
 4 *of the credit so allowed.*

5       “(f) *APPLICATION OF SECTION.*—Subsection (a) shall  
 6 *apply to dwellings purchased during the period beginning*  
 7 *on January 1, 2002, and ending on December 31, 2006.”.*

8       (b) *CREDIT MADE PART OF GENERAL BUSINESS*  
 9 *CREDIT.*—Subsection (b) of section 38 (relating to current  
 10 *year business credit*) is amended by striking “plus” at the  
 11 *end of paragraph (15), by striking the period at the end*  
 12 *of paragraph (16) and inserting “, plus”, and by adding*  
 13 *at the end thereof the following new paragraph:*

14               “(17) *the new energy efficient home credit deter-*  
 15 *mined under section 45H.”.*

16       (c) *DENIAL OF DOUBLE BENEFIT.*—Section 280C (re-  
 17 *lating to certain expenses for which credits are allowable)*  
 18 *is amended by adding at the end thereof the following new*  
 19 *subsection:*

20       “(d) *NEW ENERGY EFFICIENT HOME EXPENSES.*—No  
 21 *deduction shall be allowed for that portion of expenses for*  
 22 *a new energy efficient home otherwise allowable as a deduc-*  
 23 *tion for the taxable year which is equal to the amount of*  
 24 *the credit determined for such taxable year under section*  
 25 *45H.”.*



1       (d) *LIMITATION ON CARRYBACK.*—Subsection (d) of  
 2       section 39 is amended by adding at the end the following  
 3       new paragraph:

4               “(12) *NO CARRYBACK OF NEW ENERGY EFFI-*  
 5       *CIENT HOME CREDIT BEFORE EFFECTIVE DATE.*—No  
 6       portion of the unused business credit for any taxable  
 7       year which is attributable to the credit determined  
 8       under section 45H may be carried back to any tax-  
 9       able year ending before January 1, 2002.”.

10       (e) *DEDUCTION FOR CERTAIN UNUSED BUSINESS*  
 11       *CREDITS.*—Subsection (c) of section 196 is amended by  
 12       striking “and” at the end of paragraph (9), by striking the  
 13       period at the end of paragraph (10) and inserting “, and”,  
 14       and by adding after paragraph (10) the following new  
 15       paragraph:

16               “(11) the new energy efficient home credit deter-  
 17       mined under section 45H.”.

18       (f) *CLERICAL AMENDMENT.*—The table of sections for  
 19       subpart D of part IV of subchapter A of chapter 1 is amend-  
 20       ed by inserting after the item relating to section 45G the  
 21       following new item:

                  “Sec. 45H. New energy efficient home credit.”.

22       (g) *EFFECTIVE DATE.*—The amendments made by this  
 23       section shall apply to taxable years ending after December  
 24       31, 2001.

1 **SEC. 110. ALLOWANCE OF DEDUCTION FOR ENERGY EFFI-**  
 2 **CIENT COMMERCIAL BUILDING PROPERTY.**

3 (a) *IN GENERAL.*—Part VI of subchapter B of chapter  
 4 1 (relating to itemized deductions for individuals and cor-  
 5 porations) is amended by inserting after section 179A the  
 6 following new section:

7 **“SEC. 179B. DEDUCTION FOR ENERGY EFFICIENT COMMER-**  
 8 **CIAL BUILDING PROPERTY.**

9 “(a) *ALLOWANCE OF DEDUCTION.*—

10 “(1) *IN GENERAL.*—There shall be allowed as a  
 11 deduction an amount equal to energy efficient com-  
 12 mercial building property expenditures made by a  
 13 taxpayer for the taxable year.

14 “(2) *MAXIMUM AMOUNT OF DEDUCTION.*—The  
 15 amount of energy efficient commercial building prop-  
 16 erty expenditures taken into account under paragraph  
 17 (1) shall not exceed an amount equal to the product  
 18 of—

19 “(A) \$2.25, and

20 “(B) the square footage of the building with  
 21 respect to which the expenditures are made.

22 “(3) *YEAR DEDUCTION ALLOWED.*—The deduc-  
 23 tion under paragraph (1) shall be allowed for the tax-  
 24 able year in which the building is placed in service.

25 “(b) *ENERGY EFFICIENT COMMERCIAL BUILDING*  
 26 *PROPERTY EXPENDITURES.*—For purposes of this section,

1 *the term ‘energy efficient commercial building property ex-*  
 2 *penditures’ means an amount paid or incurred for energy*  
 3 *efficient commercial building property installed on or in*  
 4 *connection with new construction or reconstruction of*  
 5 *property—*

6           “(1) *for which depreciation is allowable under*  
 7       *section 167,*

8           “(2) *which is located in the United States, and*

9           “(3) *the construction or erection of which is com-*  
 10       *pleted by the taxpayer.*

11 *Such property includes all residential rental property, in-*  
 12 *cluding low-rise multifamily structures and single family*  
 13 *housing property which is not within the scope of Standard*  
 14 *90.1–1999 (described in subsection (c)). Such term includes*  
 15 *expenditures for labor costs properly allocable to the onsite*  
 16 *preparation, assembly, or original installation of the prop-*  
 17 *erty.*

18       “(c) *ENERGY EFFICIENT COMMERCIAL BUILDING*  
 19 *PROPERTY.—For purposes of subsection (b)—*

20           “(1) *IN GENERAL.—The term ‘energy efficient*  
 21 *commercial building property’ means any property*  
 22 *which reduces total annual energy and power costs*  
 23 *with respect to the lighting, heating, cooling, ventila-*  
 24 *tion, and hot water supply systems of the building by*  
 25 *50 percent or more in comparison to a reference*

1 *building which meets the requirements of Standard*  
 2 *90.1–1999 of the American Society of Heating, Re-*  
 3 *frigerating, and Air Conditioning Engineers and the*  
 4 *Illuminating Engineering Society of North America*  
 5 *using methods of calculation under paragraph (2)*  
 6 *and certified by qualified professionals as provided*  
 7 *under subsection (f).*

8 “(2) *METHODS OF CALCULATION.*—*The Sec-*  
 9 *retary, in consultation with the Secretary of Energy,*  
 10 *shall promulgate regulations which describe in detail*  
 11 *methods for calculating and verifying energy and*  
 12 *power consumption and cost, taking into consider-*  
 13 *ation the provisions of the 1998 California Nonresi-*  
 14 *dential ACM Manual. These procedures shall meet the*  
 15 *following requirements:*

16 “(A) *In calculating tradeoffs and energy*  
 17 *performance, the regulations shall prescribe the*  
 18 *costs per unit of energy and power, such as kilo-*  
 19 *watt hour, kilowatt, gallon of fuel oil, and cubic*  
 20 *foot or Btu of natural gas, which may be de-*  
 21 *pendent on time of usage.*

22 “(B) *The calculational methodology shall*  
 23 *require that compliance be demonstrated for a*  
 24 *whole building. If some systems of the building,*  
 25 *such as lighting, are designed later than other*

1       *systems of the building, the method shall provide*  
2       *that either—*

3               “(i) *the expenses taken into account*  
4               *under subsection (a) shall not occur until*  
5               *the date designs for all energy-using systems*  
6               *of the building are completed,*

7               “(ii) *the energy performance of all sys-*  
8               *tems and components not yet designed shall*  
9               *be assumed to comply minimally with the*  
10              *requirements of such Standard 90.1–1999,*  
11              *or*

12              “(iii) *the expenses taken into account*  
13              *under subsection (a) shall be a fraction of*  
14              *such expenses based on the performance of*  
15              *less than all energy-using systems in ac-*  
16              *cordance with subparagraph (C).*

17              “(C) *The expenditures in connection with*  
18              *the design of subsystems in the building, such as*  
19              *the envelope, the heating, ventilation, air condi-*  
20              *tioning and water heating system, and the light-*  
21              *ing system shall be allocated to the appropriate*  
22              *building subsystem based on system-specific en-*  
23              *ergy cost savings targets in regulations promul-*  
24              *gated by the Secretary of Energy which are*  
25              *equivalent, using the calculation methodology, to*

1        *the whole building requirement of 50 percent*  
2        *savings.*

3                *“(D) The calculational methods under this*  
4        *subparagraph need not comply fully with section*  
5        *11 of such Standard 90.1–1999.*

6                *“(E) The calculational methods shall be fuel*  
7        *neutral, such that the same energy efficiency fea-*  
8        *tures shall qualify a building for the deduction*  
9        *under this subsection regardless of whether the*  
10       *heating source is a gas or oil furnace or an elec-*  
11       *tric heat pump.*

12                *“(F) The calculational methods shall pro-*  
13        *vide appropriate calculated energy savings for*  
14        *design methods and technologies not otherwise*  
15        *credited in either such Standard 90.1–1999 or in*  
16        *the 1998 California Nonresidential ACM Man-*  
17        *ual, including the following:*

18                        *“(i) Natural ventilation.*

19                        *“(ii) Evaporative cooling.*

20                        *“(iii) Automatic lighting controls such*  
21        *as occupancy sensors, photocells, and time-*  
22        *clocks.*

23                        *“(iv) Daylighting.*

24                        *“(v) Designs utilizing semi-conditioned*  
25        *spaces that maintain adequate comfort con-*

1            *ditions without air conditioning or without*  
2            *heating.*

3            *“(vi) Improved fan system efficiency,*  
4            *including reductions in static pressure.*

5            *“(vii) Advanced unloading mechanisms*  
6            *for mechanical cooling, such as multiple or*  
7            *variable speed compressors.*

8            *“(viii) The calculational methods may*  
9            *take into account the extent of commis-*  
10           *sioning in the building, and allow the tax-*  
11           *payer to take into account measured per-*  
12           *formance that exceeds typical performance.*

13           *“(3) COMPUTER SOFTWARE.—*

14           *“(A) IN GENERAL.—Any calculation under*  
15           *this subsection shall be prepared by qualified*  
16           *computer software.*

17           *“(B) QUALIFIED COMPUTER SOFTWARE.—*  
18           *For purposes of this paragraph, the term ‘quali-*  
19           *fied computer software’ means software—*

20           *“(i) for which the software designer has*  
21           *certified that the software meets all proce-*  
22           *dures and detailed methods for calculating*  
23           *energy and power consumption and costs as*  
24           *required by the Secretary,*

1                   “(ii) which provides such forms as re-  
 2                   quired to be filed by the Secretary in con-  
 3                   nection with energy efficiency of property  
 4                   and the deduction allowed under this sec-  
 5                   tion, and

6                   “(iii) which provides a notice form  
 7                   which summarizes the energy efficiency fea-  
 8                   tures of the building and its projected an-  
 9                   nual energy costs.

10           “(d) *ALLOCATION OF DEDUCTION FOR PUBLIC PROP-*  
 11 *ERTY.*—*In the case of energy efficient commercial building*  
 12 *property installed on or in public property, the Secretary*  
 13 *shall promulgate a regulation to allow the allocation of the*  
 14 *deduction to the person primarily responsible for designing*  
 15 *the property in lieu of the public entity which is the owner*  
 16 *of such property. Such person shall be treated as the tax-*  
 17 *payer for purposes of this section.*

18           “(e) *NOTICE TO OWNER.*—*The qualified individual*  
 19 *shall provide an explanation to the owner of the building*  
 20 *regarding the energy efficiency features of the building and*  
 21 *its projected annual energy costs as provided in the notice*  
 22 *under subsection (c)(3)(B)(iii).*

23           “(f) *CERTIFICATION.*—*The Secretary, in consultation*  
 24 *with the Secretary of Energy, shall establish requirements*



1 *for certification and compliance procedures similar to the*  
 2 *procedures under section 45H(d).*

3       “(g) *BASIS REDUCTION.*—*For purposes of this title,*  
 4 *the basis of any property shall be reduced by the amount*  
 5 *of the deduction with respect to such property which is al-*  
 6 *lowed by subsection (a).*

7       “(h) *TERMINATION.*—*This section shall not apply to*  
 8 *property placed in service after December 31, 2006.”.*

9       (b) *CONFORMING AMENDMENTS.*—

10           (1) *Section 1016(a) is amended by striking*  
 11 *“and” at the end of paragraph (31), by striking the*  
 12 *period at the end of paragraph (32) and inserting “,*  
 13 *and”, and by inserting the following new paragraph:*  
 14 *“(33) to the extent provided in section 179B(g).”.*

15           (2) *Section 1245(a) is amended by inserting*  
 16 *“179B,” after “179A,” both places it appears in*  
 17 *paragraphs (2)(C) and (3)(C).*

18           (3) *Section 1250(b)(3) is amended by inserting*  
 19 *before the period at the end of the first sentence “or*  
 20 *by section 179B”.*

21           (4) *Section 263(a)(1) is amended by striking*  
 22 *“or” at the end of subparagraph (G), by striking the*  
 23 *period at the end of subparagraph (H) and inserting*  
 24 *“, or”, and by inserting after subparagraph (H) the*  
 25 *following new subparagraph:*

1           “(I) expenditures for which a deduction is  
2           allowed under section 179B.”.

3           (5) Section 312(k)(3)(B) is amended by striking  
4           “or 179A” each place it appears in the heading and  
5           text and inserting “, 179A, or 179B”.

6           (c) *CLERICAL AMENDMENT.*—The table of sections for  
7           part VI of subchapter B of chapter 1 is amended by adding  
8           after section 179A the following new item:

“Sec. 179B. Deduction for energy efficient commercial building  
property.”.

9           (d) *EFFECTIVE DATE.*—The amendments made by this  
10          section shall apply to taxable years beginning after Decem-  
11          ber 31, 2001.

12       **SEC. 111. ALLOWANCE OF DEDUCTION FOR QUALIFIED EN-**  
13                       **ERGY MANAGEMENT DEVICES AND RETRO-**  
14                       **FITTED QUALIFIED METERS.**

15          (a) *IN GENERAL.*—Part VI of subchapter B of chapter  
16          1 (relating to itemized deductions for individuals and cor-  
17          porations) is amended by inserting after section 179B the  
18          following new section:

19       **“SEC. 179C. DEDUCTION FOR QUALIFIED ENERGY MANAGE-**  
20                       **MENT DEVICES AND RETROFITTED METERS.**

21          “(a) *ALLOWANCE OF DEDUCTION.*—In the case of a  
22          taxpayer who is a supplier of electric energy or natural  
23          gas or a provider of electric energy or natural gas services,  
24          there shall be allowed as a deduction an amount equal to

1 *the cost of each qualified energy management device placed*  
 2 *in service during the taxable year.*

3 “(b) *MAXIMUM DEDUCTION.*—*The deduction allowed*  
 4 *by this section with respect to each qualified energy man-*  
 5 *agement device shall not exceed \$30.*

6 “(c) *QUALIFIED ENERGY MANAGEMENT DEVICE.*—*The*  
 7 *term ‘qualified energy management device’ means any tan-*  
 8 *gible property to which section 168 applies if such property*  
 9 *is a meter or metering device—*

10 “(1) *which is acquired and used by the taxpayer*  
 11 *to enable consumers to manage their purchase or use*  
 12 *of electricity or natural gas in response to energy*  
 13 *price and usage signals, and*

14 “(2) *which permits reading of energy price and*  
 15 *usage signals on at least a daily basis.*

16 “(d) *PROPERTY USED OUTSIDE THE UNITED STATES*  
 17 *NOT QUALIFIED.*—*No deduction shall be allowed under sub-*  
 18 *section (a) with respect to property which is used predomi-*  
 19 *nantly outside the United States or with respect to the por-*  
 20 *tion of the cost of any property taken into account under*  
 21 *section 179.*

22 “(e) *BASIS REDUCTION.*—

23 “(1) *IN GENERAL.*—*For purposes of this title, the*  
 24 *basis of any property shall be reduced by the amount*

1       of the deduction with respect to such property which  
2       is allowed by subsection (a).

3               “(2) *ORDINARY INCOME RECAPTURE.*—For pur-  
4       poses of section 1245, the amount of the deduction al-  
5       lowable under subsection (a) with respect to any  
6       property that is of a character subject to the allow-  
7       ance for depreciation shall be treated as a deduction  
8       allowed for depreciation under section 167.”.

9       (b) *CONFORMING AMENDMENTS.*—

10           (1) Section 263(a)(1) is amended by striking  
11       “or” at the end of subparagraph (H), by striking the  
12       period at the end of subparagraph (I) and inserting  
13       “, or”, and by inserting after subparagraph (I) the  
14       following new subparagraph:

15               “(J) expenditures for which a deduction is  
16       allowed under section 179C.”.

17           (2) Section 312(k)(3)(B) is amended by striking  
18       “or 179B” each place it appears in the heading and  
19       text and inserting “, 179B, or 179C”.

20           (3) Section 1016(a) is amended by striking  
21       “and” at the end of paragraph (32), by striking the  
22       period at the end of paragraph (33) and inserting “,  
23       and”, and by inserting after paragraph (33) the fol-  
24       lowing new paragraph:

1           “(34) to the extent provided in section  
2       179C(e)(1).”.

3           (4) Section 1245(a) is amended by inserting  
4       “179C,” after “179B,” both places it appears in para-  
5       graphs (2)(C) and (3)(C).

6           (5) The table of contents for subpart B of part  
7       IV of subchapter A of chapter 1 is amended by insert-  
8       ing after the item relating to section 179B the fol-  
9       lowing new item:

“Sec. 179C. Deduction for qualified energy management devices  
and retrofitted meters.”.

10       (c) *EFFECTIVE DATE.*—The amendments made by this  
11       section shall apply to qualified energy management devices  
12       placed in service after the date of the enactment of this Act.

13       **SEC. 112. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DE-**  
14                               **PRECIATION OF QUALIFIED ENERGY MAN-**  
15                               **AGEMENT DEVICES.**

16       (a) *IN GENERAL.*—Subparagraph (A) of section  
17       168(e)(3) (relating to classification of property) is amended  
18       by striking “and” at the end of clause (ii), by striking the  
19       period at the end of clause (iii) and inserting “, and”, and  
20       by adding at the end the following new clause:

21                               “(iv) any qualified energy manage-  
22                               ment device.”.

23       (b) *DEFINITION OF QUALIFIED ENERGY MANAGEMENT*  
24       *DEVICE.*—Section 168(i) (relating to definitions and spe-

1 cial rules) is amended by inserting at the end the following  
 2 new paragraph:

3           “(15) *QUALIFIED ENERGY MANAGEMENT DE-*  
 4           *VICE.*—The term ‘qualified energy management de-  
 5           vice’ means any qualified energy management device  
 6           as defined in section 179C(c) which is placed in serv-  
 7           ice by a taxpayer who is a supplier of electric energy  
 8           or natural gas or a provider of electric energy or nat-  
 9           ural gas services.”.

10          (c) *EFFECTIVE DATE.*—The amendments made by this  
 11 section shall apply to property placed in service after the  
 12 date of the enactment of this Act.

13 **SEC. 113. ENERGY CREDIT FOR COMBINED HEAT AND**  
 14 **POWER SYSTEM PROPERTY.**

15          (a) *IN GENERAL.*—Subparagraph (A) of section  
 16 48(a)(3) (defining energy property) is amended by striking  
 17 “or” at the end of clause (ii), by adding “or” at the end  
 18 of clause (iii), and by inserting after clause (iii) the fol-  
 19 lowing new clause:

20                           “(iv) combined heat and power system  
 21                           property,”.

22          (b) *COMBINED HEAT AND POWER SYSTEM PROP-*  
 23 *ERTY.*—Subsection (a) of section 48 is amended by redesignig-  
 24 nating paragraphs (5) and (6) as paragraphs (6) and (7),

1 *respectively, and by inserting after paragraph (4) the fol-*  
2 *lowing new paragraph:*

3           “(5) *COMBINED HEAT AND POWER SYSTEM PROP-*  
4 *ERTY.—For purposes of this subsection—*

5           “(A) *COMBINED HEAT AND POWER SYSTEM*  
6 *PROPERTY.—The term ‘combined heat and power*  
7 *system property’ means property comprising a*  
8 *system—*

9           “(i) *which uses the same energy source*  
10 *for the simultaneous or sequential genera-*  
11 *tion of electrical power, mechanical shaft*  
12 *power, or both, in combination with the*  
13 *generation of steam or other forms of useful*  
14 *thermal energy (including heating and cool-*  
15 *ing applications),*

16           “(ii) *which has an electrical capacity*  
17 *of more than 50 kilowatts or a mechanical*  
18 *energy capacity of more than 67 horsepower*  
19 *or an equivalent combination of electrical*  
20 *and mechanical energy capacities,*

21           “(iii) *which produces—*

22           “(I) *at least 20 percent of its total*  
23 *useful energy in the form of thermal*  
24 *energy, and*

1                   “(II) at least 20 percent of its  
2                   total useful energy in the form of elec-  
3                   trical or mechanical power (or com-  
4                   bination thereof),

5                   “(iv) the energy efficiency percentage  
6                   of which exceeds 60 percent (70 percent in  
7                   the case of a system with an electrical ca-  
8                   pacity in excess of 50 megawatts or a me-  
9                   chanical energy capacity in excess of 67,000  
10                  horsepower, or an equivalent combination of  
11                  electrical and mechanical energy capac-  
12                  ities), and

13                  “(v) which is placed in service after  
14                  December 31, 2001, and before January 1,  
15                  2007.

16                  “(B) SPECIAL RULES.—

17                  “(i) ENERGY EFFICIENCY PERCENT-  
18                  AGE.—For purposes of subparagraph  
19                  (A)(iv), the energy efficiency percentage of a  
20                  system is the fraction—

21                  “(I) the numerator of which is the  
22                  total useful electrical, thermal, and me-  
23                  chanical power produced by the system  
24                  at normal operating rates, and



1                   “(II) the denominator of which is  
2                   the lower heating value of the primary  
3                   fuel source for the system.

4                   “(ii) DETERMINATIONS MADE ON BTU  
5                   BASIS.—The energy efficiency percentage  
6                   and the percentages under subparagraph  
7                   (A)(iii) shall be determined on a Btu basis.

8                   “(iii) INPUT AND OUTPUT PROPERTY  
9                   NOT INCLUDED.—The term ‘combined heat  
10                  and power system property’ does not in-  
11                  clude property used to transport the energy  
12                  source to the facility or to distribute energy  
13                  produced by the facility.

14                  “(iv) PUBLIC UTILITY PROPERTY.—

15                   “(I) ACCOUNTING RULE FOR PUB-  
16                   LIC UTILITY PROPERTY.—If the com-  
17                   bined heat and power system property  
18                   is public utility property (as defined  
19                   in section 168(i)(1)), the taxpayer may  
20                   only claim the credit under the sub-  
21                   section if, with respect to such prop-  
22                   erty, the taxpayer uses a normalization  
23                   method of accounting.

24                   “(II) CERTAIN EXCEPTION NOT TO  
25                   APPLY.—The matter in paragraph (3)

1                   *which follows subparagraph (D) shall*  
2                   *not apply to combined heat and power*  
3                   *system property.*

4                   “(C) *EXTENSION OF DEPRECIATION RECOV-*  
5                   *ERY PERIOD.—If a taxpayer is allowed credit*  
6                   *under this section for combined heat and power*  
7                   *system property and such property would (but*  
8                   *for this subparagraph) have a class life of 15*  
9                   *years or less under section 168, such property*  
10                  *shall be treated as having a 22-year class life for*  
11                  *purposes of section 168.”.*

12                  (c) *NO CARRYBACK OF ENERGY CREDIT BEFORE EF-*  
13                  *FECTIVE DATE.—Subsection (d) of section 39 is amended*  
14                  *by adding at the end the following new paragraph:*

15                  “(13) *NO CARRYBACK OF ENERGY CREDIT BE-*  
16                  *FORE EFFECTIVE DATE.—No portion of the unused*  
17                  *business credit for any taxable year which is attrib-*  
18                  *utable to the energy credit with respect to property*  
19                  *described in section 48(a)(5) may be carried back to*  
20                  *a taxable year ending before January 1, 2002.”.*

21                  (d) *EFFECTIVE DATE.—The amendments made by this*  
22                  *section shall apply to property placed in service after De-*  
23                  *cember 31, 2001.*

1 **SEC. 114. NEW NONREFUNDABLE PERSONAL CREDITS AL-**  
 2 **LOWED AGAINST REGULAR AND MINIMUM**  
 3 **TAXES.**

4 (a) *IN GENERAL.*—Paragraph (1) of section 26(a) is  
 5 amended by striking “and 25B” and inserting “25B, 25C,  
 6 25D, and 25E”.

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) Section 24(b)(3)(B) is amended by striking  
 9 “and 25B” and inserting “, 25B, 25C, 25D, and  
 10 25E”.

11 (2) Section 25(e)(1)(C) is amended by inserting  
 12 “25C, 25D, and 25E” after “25B,”.

13 (3) Section 25B(g)(2) is amended by striking  
 14 “section 23” and inserting “sections 23, 25C, 25D,  
 15 and 25E”.

16 (4) Section 904(h) is amended by striking “and  
 17 25B” and inserting “25B, 25C, 25D, and 25E”.

18 (5) Section 1400C(d) is amended by striking  
 19 “and 25B” and inserting “25B, 25C, 25D, and 25E”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this  
 21 section shall apply to taxable years beginning after Decem-  
 22 ber 31, 2001.

1 **SEC. 115. PHASEOUT OF 4.3-CENT MOTOR FUEL EXCISE**  
 2 **TAXES ON RAILROADS AND INLAND WATER-**  
 3 **WAY TRANSPORTATION WHICH REMAIN IN**  
 4 **GENERAL FUND.**

5 *(a) TAXES ON TRAINS.—*

6 *(1) IN GENERAL.—Clause (ii) of section*  
 7 *4041(a)(1)(C) is amended by striking subclauses (I),*  
 8 *(II), and (III) and inserting the following new sub-*  
 9 *clauses:*

10 *“(I) 3.3 cents per gallon after*  
 11 *September 30, 2001, and before Janu-*  
 12 *ary 1, 2005,*

13 *“(II) 2.3 cents per gallon after*  
 14 *December 31, 2004, and before Janu-*  
 15 *ary 1, 2007,*

16 *“(III) 1.3 cents per gallon after*  
 17 *December 31, 2006, and before Janu-*  
 18 *ary 1, 2009,*

19 *“(IV) 0.3 cent per gallon after De-*  
 20 *cember 31, 2008, and before January*  
 21 *1, 2010, and*

22 *“(V) 0 after December 31, 2009.”.*

23 *(2) CONFORMING AMENDMENTS.—*

24 *(A) Subsection (d) of section 4041 is*  
 25 *amended by redesignating paragraph (3) as*

1 paragraph (4) and by inserting after paragraph  
 2 (2) the following new paragraph:

3 “(3) *DIESEL FUEL USED IN TRAINS.*—*In the case*  
 4 *of any sale for use (or use) after September 30, 2010,*  
 5 *there is hereby imposed a tax of 0.1 cent per gallon*  
 6 *on any liquid other than gasoline (as defined in sec-*  
 7 *tion 4083)—*

8 “(A) *sold by any person to an owner, lessee,*  
 9 *or other operator of a diesel-powered train for*  
 10 *use as a fuel in such train, or*

11 “(B) *used by any person as a fuel in a die-*  
 12 *sel-powered train unless there was a taxable sale*  
 13 *of such fuel under subparagraph (A).*

14 *No tax shall be imposed by this paragraph on the sale*  
 15 *or use of any liquid if tax was imposed on such liq-*  
 16 *uid under section 4081.”*

17 (B) *Subsection (f) of section 4082 is amend-*  
 18 *ed by striking “section 4041(a)(1)” and inserting*  
 19 *“subsections (a)(1) and (d)(3) of section 4041”.*

20 (C) *Subparagraph (B) of section 6421(f)(3)*  
 21 *is amended to read as follows:*

22 “(B) *so much of the rate specified in section*  
 23 *4081(a)(2)(A) as does not exceed the rate appli-*  
 24 *cable under section 4041(a)(1)(C)(ii).”.*

1                   (D) Subparagraph (B) of section 6427(l)(3)  
 2                   is amended to read as follows:

3                   “(B) so much of the rate specified in section  
 4                   4081(a)(2)(A) as does not exceed the rate appli-  
 5                   cable under section 4041(a)(1)(C)(ii).”.

6           (b) FUEL USED ON INLAND WATERWAYS.—Subpara-  
 7 graph (C) of section 4042(b)(2) is amended to read as fol-  
 8 lows:

9                   “(C) The deficit reduction rate is—

10                   “(i) 3.3 cents per gallon after Sep-  
 11                   tember 30, 2001, and before January 1,  
 12                   2005,

13                   “(ii) 2.3 cents per gallon after Decem-  
 14                   ber 31, 2004, and before January 1, 2007,

15                   “(iii) 1.3 cents per gallon after Decem-  
 16                   ber 31, 2006, and before January 1, 2009,

17                   “(iv) 0.3 cent per gallon after Decem-  
 18                   ber 31, 2008, and before January 1, 2010,

19                   and

20                   “(v) 0 after December 31, 2009.”.

21           (c) EFFECTIVE DATE.—The amendments made by this  
 22 section shall take effect on October 1, 2001.

1 **SEC. 116. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN**  
 2 **MIXTURES OF DIESEL FUEL.**

3 (a) *IN GENERAL.*—Clause (iii) of section  
 4 4081(a)(2)(A) is amended by inserting before the period  
 5 “(19.7 cents per gallon in the case of a diesel-water fuel  
 6 emulsion at least 14 percent of which is water)”.

7 (b) *REFUNDS FOR TAX-PAID PURCHASES.*—

8 (1) *IN GENERAL.*—Section 6427 is amended by  
 9 redesignating subsections (m) through (p) as sub-  
 10 sections (n) through (q), respectively, and by inserting  
 11 after subsection (l) the following new subsection:

12 “(m) *DIESEL FUEL USED TO PRODUCE EMULSION.*—

13 “(1) *IN GENERAL.*—Except as provided in sub-  
 14 section (k), if any diesel fuel on which tax was im-  
 15 posed by section 4081 at the regular tax rate is used  
 16 by any person in producing an emulsion described in  
 17 section 4081(a)(2)(A) which is sold or used in such  
 18 person’s trade or business, the Secretary shall pay  
 19 (without interest) to such person an amount equal to  
 20 the excess of the regular tax rate over the incentive  
 21 tax rate with respect to such fuel.

22 “(2) *DEFINITIONS.*—For purposes of paragraph  
 23 (1)—

24 “(A) *REGULAR TAX RATE.*—The term ‘reg-  
 25 ular tax rate’ means the aggregate rate of tax  
 26 imposed by section 4081 determined without re-

1           gard to the parenthetical in section  
2           4081(a)(2)(A).

3           “(B) *INCENTIVE TAX RATE*.—The term ‘in-  
4           centive tax rate’ means the aggregate rate of tax  
5           imposed by section 4081 determined with regard  
6           to the parenthetical in section 4081(a)(2)(A).”

7           (c) *EFFECTIVE DATE*.—The amendments made by this  
8           section shall take effect on October 1, 2001.

9   **SEC. 117. CREDIT FOR INVESTMENT IN QUALIFYING AD-**  
10           **VANCED CLEAN COAL TECHNOLOGY.**

11           (a) *ALLOWANCE OF QUALIFYING ADVANCED CLEAN*  
12           *COAL TECHNOLOGY FACILITY CREDIT*.—Section 46 (relat-  
13           ing to amount of credit) is amended by striking “and” at  
14           the end of paragraph (2), by striking the period at the end  
15           of paragraph (3) and inserting “, and”, and by adding at  
16           the end the following:

17                   “(4) the qualifying advanced clean coal tech-  
18           nology facility credit.”.

19           (b) *AMOUNT OF QUALIFYING ADVANCED CLEAN COAL*  
20           *TECHNOLOGY FACILITY CREDIT*.—Subpart E of part IV of  
21           subchapter A of chapter 1 (relating to rules for computing  
22           investment credit) is amended by inserting after section 48  
23           the following:



1 **“SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECH-**  
 2 **NOLOGY FACILITY CREDIT.**

3 “(a) *IN GENERAL.*—For purposes of section 46, the  
 4 *qualifying advanced clean coal technology facility credit for*  
 5 *any taxable year is an amount equal to 10 percent of the*  
 6 *qualified investment in a qualifying advanced clean coal*  
 7 *technology facility for such taxable year.*

8 “(b) *QUALIFYING ADVANCED CLEAN COAL TECH-*  
 9 *NOLOGY FACILITY.*—

10 “(1) *IN GENERAL.*—For purposes of subsection  
 11 *(a), the term ‘qualifying advanced clean coal tech-*  
 12 *nology facility’ means a facility of the taxpayer*  
 13 *which—*

14 “(A)(i)(I) *original use of which commences*  
 15 *with the taxpayer, or*

16 “(II) *is a retrofitted or repowered conven-*  
 17 *tional technology facility, the retrofitting or*  
 18 *repowering of which is completed by the tax-*  
 19 *payer (but only with respect to that portion of*  
 20 *the basis which is properly attributable to such*  
 21 *retrofitting or repowering), or*

22 “(ii) *is acquired through purchase (as de-*  
 23 *finied by section 179(d)(2)),*

24 “(B) *is depreciable under section 167,*

25 “(C) *has a useful life of not less than 4*  
 26 *years,*

1                   “(D) is located in the United States, and

2                   “(E) uses qualifying advanced clean coal  
3                   technology.

4                   “(2) *SPECIAL RULE FOR SALE-LEASEBACKS.*—  
5                   For purposes of subparagraph (A) of paragraph (1),  
6                   in the case of a facility which—

7                   “(A) is originally placed in service by a  
8                   person, and

9                   “(B) is sold and leased back by such person,  
10                  or is leased to such person, within 3 months after  
11                  the date such facility was originally placed in  
12                  service, for a period of not less than 12 years,  
13                  such facility shall be treated as originally placed in  
14                  service not earlier than the date on which such prop-  
15                  erty is used under the leaseback (or lease) referred to  
16                  in subparagraph (B). The preceding sentence shall  
17                  not apply to any property if the lessee and lessor of  
18                  such property make an election under this sentence.  
19                  Such an election, once made, may be revoked only  
20                  with the consent of the Secretary.

21                  “(c) *QUALIFYING ADVANCED CLEAN COAL TECH-*  
22                  *NOLOGY.*—For purposes of this section—

23                  “(1) *IN GENERAL.*—The term ‘qualifying ad-  
24                  vanced clean coal technology’ means, with respect to  
25                  clean coal technology—

1 “(A) which has—

2 “(i) multiple applications, with a com-  
3 bined capacity of not more than 5,000  
4 megawatts (4,000 megawatts before 2009),  
5 of advanced pulverized coal or atmospheric  
6 fluidized bed combustion technology—

7 “(I) installed as a new, retrofit,  
8 or repowering application,

9 “(II) operated between 2000 and  
10 2012, and

11 “(III) having a design net heat  
12 rate of not more than 9,500 Btu per  
13 kilowatt hour when the design coal has  
14 a heat content of more than 9,000 Btu  
15 per pound, or a design net heat rate of  
16 not more than 9,900 Btu per kilowatt  
17 hour when the design coal has a heat  
18 content of 9,000 Btu per pound or less,

19 “(ii) multiple applications, with a  
20 combined capacity of not more than 1,000  
21 megawatts (500 megawatts before 2009 and  
22 750 megawatts before 2013), of pressurized  
23 fluidized bed combustion technology—

24 “(I) installed as a new, retrofit,  
25 or repowering application,

1                   “(II) operated between 2000 and  
2                   2016, and

3                   “(III) having a design net heat  
4                   rate of not more than 8,400 Btu per  
5                   kilowatt hour when the design coal has  
6                   a heat content of more than 9,000 Btu  
7                   per pound, or a design net heat rate of  
8                   not more than 9,900 Btu’s per kilowatt  
9                   hour when the design coal has a heat  
10                  content of 9,000 Btu per pound or less,  
11                  and

12                  “(iii) multiple applications, with a  
13                  combined capacity of not more than 2,000  
14                  megawatts (1,000 megawatts before 2009  
15                  and 1,500 megawatts before 2013), of inte-  
16                  grated gasification combined cycle tech-  
17                  nology, with or without fuel or chemical co-  
18                  production—

19                  “(I) installed as a new, retrofit,  
20                  or repowering application,

21                  “(II) operated between 2000 and  
22                  2016,

23                  “(III) having a design net heat  
24                  rate of not more than 8,550 Btu per  
25                  kilowatt hour when the design coal has

1           *a heat content of more than 9,000 Btu*  
2           *per pound, or a design net heat rate*  
3           *of not more than 9,900 Btu per kilo-*  
4           *watt hour when the design coal has a*  
5           *heat content of 9,000 Btu per pound*  
6           *or less, and*

7                   *“(IV) having a net thermal effi-*  
8                   *ciency on any fuel or chemical co-pro-*  
9                   *duction of not less than 39 percent*  
10                  *(higher heating value), or*

11                  *“(iv) multiple applications, with a*  
12                  *combined capacity of not more than 2,000*  
13                  *megawatts (1,000 megawatts before 2009*  
14                  *and 1,500 megawatts before 2013) of tech-*  
15                  *nology for the production of electricity—*

16                   *“(I) installed as a new, retrofit,*  
17                   *or repowering application,*

18                   *“(II) operated between 2000 and*  
19                   *2016, and*

20                   *“(III) having a carbon emission*  
21                   *rate which is not more than 85 percent*  
22                   *of conventional technology, and*

23                   *“(B) which reduces the discharge into the*  
24                   *atmosphere of 1 or more of the following pollut-*  
25                   *ants to not more than—*

1           “(i) 5 percent of the potential combus-  
2           tion concentration sulfur dioxide emissions  
3           for a coal with a potential combustion con-  
4           centration sulfur emission of 1.2 lb/million  
5           btu of heat input or greater,

6           “(ii) 15 percent of the potential com-  
7           bustion concentration sulfur dioxide emis-  
8           sions for a coal with a potential combustion  
9           concentration sulfur emission of less than  
10          1.2 lb/million btu of heat input,

11          “(iii) nitrogen oxide emissions of 0.1 lb  
12          per million btu of heat input from other  
13          than cyclone-fired boilers,

14          “(iv) 15 percent of the uncontrolled ni-  
15          trogen oxide emissions from cyclone-fired  
16          boilers,

17          “(v) particulate emissions of 0.02 lb  
18          per million btu of heat input, and

19          “(vi) the emission levels specified in  
20          the new source performance standards of the  
21          Clean Air Act (42 U.S.C. 7411) in effect at  
22          the time of retrofitting, repowering, or re-  
23          placement of the qualifying clean coal tech-  
24          nology unit for the category of source if

1                    *such level is lower than the levels specified*  
 2                    *in clause (i), (ii), (iii), (iv), or (v).*

3                    “(2) *EXCEPTIONS.*—*Such term shall not include*  
 4                    *any projects receiving or scheduled to receive funding*  
 5                    *under the Clean Coal Technology Program, or the*  
 6                    *Power Plant Improvement administered by the Sec-*  
 7                    *retary of the Department of Energy.*

8                    “(d) *CLEAN COAL TECHNOLOGY.*—*For purposes of this*  
 9                    *section, the term ‘clean coal technology’ means advanced*  
 10                    *technology which uses coal to produce 75 percent or more*  
 11                    *of its thermal output as electricity including advanced pul-*  
 12                    *verized coal or atmospheric fluidized bed combustion, pres-*  
 13                    *surized fluidized bed combustion, integrated gasification*  
 14                    *combined cycle with or without fuel or chemical co-produc-*  
 15                    *tion, and any other technology for the production of elec-*  
 16                    *tricity which exceeds the performance of conventional tech-*  
 17                    *nology.*

18                    “(e) *CONVENTIONAL TECHNOLOGY.*—*The term ‘conven-*  
 19                    *tional technology’ means—*

20                    “(1) *coal-fired combustion technology with a de-*  
 21                    *sign net heat rate of not less than 9,500 Btu per kilo-*  
 22                    *watt hour (HHV) and a carbon equivalents emission*  
 23                    *rate of not more than 0.54 pounds of carbon per kilo-*  
 24                    *watt hour when the design coal has a heat content of*  
 25                    *more than 9,000 Btu per pound,*

1           “(2) coal-fired combustion technology with a de-  
 2           sign net heat rate of not less than 10,500 Btu per kil-  
 3           owatt hour (HHV) and a carbon equivalents emission  
 4           rate of not more than 0.60 pounds of carbon per kilo-  
 5           watt hour when the design coal has a heat content of  
 6           9,000 Btu per pound or less, or

7           “(3) natural gas-fired combustion technology  
 8           with a design net heat rate of not less than 7,500 Btu  
 9           per kilowatt hour (HHV) and a carbon equivalents  
 10          emission rate of not more than 0.24 pounds of carbon  
 11          per kilowatt hour.

12          “(f) DESIGN NET HEAT RATE.—The design net heat  
 13          rate shall be based on the design annual heat input to and  
 14          the design annual net electrical output from the qualifying  
 15          advanced clean coal technology (determined without regard  
 16          to such technology’s co-generation of steam).

17          “(g) SELECTION CRITERIA.—Selection criteria for  
 18          qualifying advanced clean coal technology facilities—

19                 “(1) shall be established by the Secretary of En-  
 20                 ergy as part of a competitive solicitation,

21                 “(2) shall include primary criteria of minimum  
 22                 design net heat rate, maximum design thermal effi-  
 23                 ciency, environmental performance, and lowest cost to  
 24                 the government, and



1           “(3) shall include supplemental criteria as deter-  
 2           mined appropriate by the Secretary of Energy.

3           “(h) *QUALIFIED INVESTMENT*.—For purposes of sub-  
 4           section (a), the term ‘qualified investment’ means, with re-  
 5           spect to any taxable year, the basis of a qualifying advanced  
 6           clean coal technology facility placed in service by the tax-  
 7           payer during such taxable year.

8           “(i) *QUALIFIED PROGRESS EXPENDITURES*.—

9           “(1) *INCREASE IN QUALIFIED INVESTMENT*.—In  
 10          the case of a taxpayer who has made an election  
 11          under paragraph (5), the amount of the qualified in-  
 12          vestment of such taxpayer for the taxable year (deter-  
 13          mined under subsection (c) without regard to this sec-  
 14          tion) shall be increased by an amount equal to the ag-  
 15          gregate of each qualified progress expenditure for the  
 16          taxable year with respect to progress expenditure  
 17          property.

18          “(2) *PROGRESS EXPENDITURE PROPERTY DE-*  
 19          *FINED*.—For purposes of this subsection, the term  
 20          ‘progress expenditure property’ means any property  
 21          being constructed by or for the taxpayer and which it  
 22          is reasonable to believe will qualify as a qualifying  
 23          advanced clean coal technology facility which is being  
 24          constructed by or for the taxpayer when it is placed  
 25          in service.

1           “(3) *QUALIFIED PROGRESS EXPENDITURES DE-*  
 2           *FINED.*—*For purposes of this subsection—*

3           “(A) *SELF-CONSTRUCTED PROPERTY.*—*In*  
 4           *the case of any self-constructed property, the*  
 5           *term ‘qualified progress expenditures’ means the*  
 6           *amount which, for purposes of this subpart, is*  
 7           *properly chargeable (during such taxable year)*  
 8           *to capital account with respect to such property.*

9           “(B) *NONSELF-CONSTRUCTED PROPERTY.*—  
 10           *In the case of nonself-constructed property, the*  
 11           *term ‘qualified progress expenditures’ means the*  
 12           *amount paid during the taxable year to another*  
 13           *person for the construction of such property.*

14           “(4) *OTHER DEFINITIONS.*—*For purposes of this*  
 15           *subsection—*

16           “(A) *SELF-CONSTRUCTED PROPERTY.*—*The*  
 17           *term ‘self-constructed property’ means property*  
 18           *for which it is reasonable to believe that more*  
 19           *than half of the construction expenditures will be*  
 20           *made directly by the taxpayer.*

21           “(B) *NONSELF-CONSTRUCTED PROPERTY.*—  
 22           *The term ‘nonself-constructed property’ means*  
 23           *property which is not self-constructed property.*

24           “(C) *CONSTRUCTION, ETC.*—*The term ‘con-*  
 25           *struction’ includes reconstruction and erection,*

1           *and the term ‘constructed’ includes reconstructed*  
 2           *and erected.*

3           “(D) *ONLY CONSTRUCTION OF QUALIFYING*  
 4           *ADVANCED CLEAN COAL TECHNOLOGY FACILITY*  
 5           *TO BE TAKEN INTO ACCOUNT.—Construction*  
 6           *shall be taken into account only if, for purposes*  
 7           *of this subpart, expenditures therefor are prop-*  
 8           *erly chargeable to capital account with respect to*  
 9           *the property.*

10          “(5) *ELECTION.—An election under this sub-*  
 11          *section may be made at such time and in such man-*  
 12          *ner as the Secretary may by regulations prescribe.*  
 13          *Such an election shall apply to the taxable year for*  
 14          *which made and to all subsequent taxable years. Such*  
 15          *an election, once made, may not be revoked except*  
 16          *with the consent of the Secretary.*

17          “(j) *COORDINATION WITH OTHER CREDITS.—This sec-*  
 18          *tion shall not apply to any property with respect to which*  
 19          *the rehabilitation credit under section 47 or the energy cred-*  
 20          *it under section 48 is allowed unless the taxpayer elects to*  
 21          *waive the application of such credit to such property.*

22          “(k) *TERMINATION.—This section shall not apply with*  
 23          *respect to any qualified investment made after December*  
 24          *31, 2011.*

25          “(l) *NATIONAL LIMITATION.—*

1           “(1) *IN GENERAL.*—*Notwithstanding any other*  
 2           *provision of this section, the term ‘qualifying ad-*  
 3           *vanced clean coal technology facility’ shall include*  
 4           *such a facility only to the extent that such facility is*  
 5           *allocated a portion of the national megawatt limita-*  
 6           *tion under this subsection.*

7           “(2) *NATIONAL MEGAWATT LIMITATION.*—*The*  
 8           *national megawatt limitation under this subsection is*  
 9           *7,500 megawatts.*

10          “(3) *ALLOCATION OF LIMITATION.*—*The national*  
 11          *megawatt limitation shall be allocated by the Sec-*  
 12          *retary under rules prescribed by the Secretary. Not*  
 13          *later than 6 months after the date of enactment of this*  
 14          *subsection, the Secretary shall prescribe such regula-*  
 15          *tions as may be necessary or appropriate to carry out*  
 16          *the purposes of this section, including regulations—*

17               “(A) *to limit which facility qualifies as*  
 18               *‘qualified advanced clean coal technology’ in sub-*  
 19               *section (c) to particular facilities, a portion of*  
 20               *particular facilities, or a portion of the produc-*  
 21               *tion from particular facilities, so that when all*  
 22               *such facilities (or portions thereof) are placed in*  
 23               *service over the ten year period in section (k),*  
 24               *the combination of facilities approved for tax*  
 25               *credits (and/or portions of facilities approved for*

1       *tax credits) will not exceed a combined capacity*  
2       *of 7,500 megawatts;*

3               *“(B) to provide a certification process in*  
4       *consultation with the Secretary of Energy under*  
5       *subsection (g) that will approve and allocate the*  
6       *7,500 megawatts of available tax credits*  
7       *authority—*

8               *“(i) to encourage that facilities with*  
9       *the highest thermal efficiencies and environ-*  
10       *mental performance be placed in service as*  
11       *soon as possible;*

12               *“(ii) to allocate credits to taxpayers*  
13       *that have a definite and credible plan for*  
14       *placing into commercial operation a quali-*  
15       *fying advanced clean coal technology facil-*  
16       *ity, including—*

17                       *“(I) a site,*

18                       *“(II) contractual commitments for*  
19       *procurement and construction,*

20                       *“(III) filings for all necessary*  
21       *preconstruction approvals,*

22                       *“(IV) a demonstrated record of*  
23       *having successfully completed com-*  
24       *parable projects on a timely basis, and*

1                   “(V) such other factors that the  
2                   Secretary shall determine are appro-  
3                   priate;

4                   “(iii) to allocate credits to a portion of  
5                   a facility (or a portion of the production  
6                   from a facility) if the Secretary determines  
7                   that such an allocation should maximize the  
8                   amount of efficient production encouraged  
9                   with the available tax credits;

10                  “(C) to set progress requirements and condi-  
11                  tional approvals so that credits for approved  
12                  projects that become unlikely to meet the nec-  
13                  essary conditions that can be reallocated by the  
14                  Secretary to other projects;

15                  “(D) to reallocate credits that are not allo-  
16                  cated to 1 technology described in clauses (i)  
17                  through (iv) of subsection (c)(1)(A) because an  
18                  insufficient number of qualifying facilities re-  
19                  quested credits for one technology, to another  
20                  technology described in another subparagraph of  
21                  subsection (c) in order to maximize the amount  
22                  of energy efficient production encouraged with  
23                  the available tax credits; and

24                  “(E) to provide taxpayers with opportuni-  
25                  ties to correct administrative errors and omis-

sions with respect to allocations and record-keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.”.

(c) *RECAPTURE*.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

“(6) *SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY*.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

“(A) *GENERAL RULE*.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology facility (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to

1       *depreciation. For purposes of the preceding sen-*  
 2       *tence, the year of disposition of the qualifying*  
 3       *advanced clean coal technology facility property*  
 4       *shall be treated as a year of remaining deprecia-*  
 5       *tion.*

6               “(B) *PROPERTY CEASES TO QUALIFY FOR*  
 7       *PROGRESS EXPENDITURES.—Rules similar to the*  
 8       *rules of paragraph (2) shall apply in the case of*  
 9       *qualified progress expenditures for a qualifying*  
 10       *advanced clean coal technology facility under*  
 11       *section 48A, except that the amount of the in-*  
 12       *crease in tax under subparagraph (A) of this*  
 13       *paragraph shall be substituted in lieu of the*  
 14       *amount described in such paragraph (2).*

15              “(C) *APPLICATION OF PARAGRAPH.—This*  
 16       *paragraph shall be applied separately with re-*  
 17       *spect to the credit allowed under section 38 re-*  
 18       *garding a qualifying advanced clean coal tech-*  
 19       *nology facility.”.*

20       (d) *TRANSITIONAL RULE.—Section 39(d) (relating to*  
 21       *transitional rules) is amended by adding at the end the fol-*  
 22       *lowing:*

23              “(14) *NO CARRYBACK OF SECTION 48A CREDIT*  
 24       *BEFORE EFFECTIVE DATE.—No portion of the unused*  
 25       *business credit for any taxable year which is attrib-*



1     ~~utable to the qualifying advanced clean coal tech-~~  
 2     ~~nology facility credit determined under section 48A~~  
 3     ~~may be carried back to a taxable year ending before~~  
 4     ~~January 1, 2002.”.~~

5     ~~(e) TECHNICAL AMENDMENTS.—~~

6             ~~(1) Section 49(a)(1)(C) is amended by striking~~  
 7             ~~“and” at the end of clause (ii), by striking the period~~  
 8             ~~at the end of clause (iii) and inserting “, and”, and~~  
 9             ~~by adding at the end the following:~~

10                     ~~“(iv) the portion of the basis of any~~  
 11                     ~~qualifying advanced clean coal technology~~  
 12                     ~~facility attributable to any qualified invest-~~  
 13                     ~~ment (as defined by section 48A(c)).”~~

14             ~~(2) Section 50(a)(4) is amended by striking~~  
 15             ~~“and (2)” and inserting “, (2), and (6)”.~~

16             ~~(3) Section 50(c) is amended by adding at the~~  
 17             ~~end the following new paragraph:~~

18                     ~~“(6) SPECIAL RULE FOR QUALIFYING ADVANCED~~  
 19                     ~~CLEAN COAL TECHNOLOGY FACILITIES.—Paragraphs~~  
 20                     ~~(1) and (2) shall not apply to any property with re-~~  
 21                     ~~spect to the credit determined under section 48A.”~~

22             ~~(4) The table of sections for subpart E of part IV~~  
 23             ~~of subchapter A of chapter 1 is amended by inserting~~  
 24             ~~after the item relating to section 48 the following:~~

~~“Sec. 48A. Qualifying advanced clean coal technology facility cred-~~  
    ~~it.”.~~

1       (f) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to periods after December 31, 2001,*  
 3 *under rules similar to the rules of section 48(m) of the In-*  
 4 *ternal Revenue Code of 1986 (as in effect on the day before*  
 5 *the date of enactment of the Revenue Reconciliation Act of*  
 6 *1990).*

7       **SEC. 118. CREDIT FOR PRODUCTION FROM QUALIFYING AD-**  
 8                                   **VANCED CLEAN COAL TECHNOLOGY.**

9       (a) *CREDIT FOR PRODUCTION FROM QUALIFYING AD-*  
 10 *VANCED CLEAN COAL TECHNOLOGY.*—*Subpart D of part IV*  
 11 *of subchapter A of chapter 1 (relating to business related*  
 12 *credits) is amended by adding after section 45J the fol-*  
 13 *lowing:*

14       **“SEC. 45K. CREDIT FOR PRODUCTION FROM QUALIFYING**  
 15                                   **ADVANCED CLEAN COAL TECHNOLOGY.**

16       “(a) *GENERAL RULE.*—*For purposes of section 38, the*  
 17 *qualifying advanced clean coal technology production credit*  
 18 *of any taxpayer for any taxable year is equal to—*

19               “(1) *the applicable amount of advanced clean*  
 20 *coal technology production credit, multiplied by*

21               “(2) *the sum of—*

22                       “(A) *the kilowatt hours of electricity, plus*

23                       “(B) *each 3,413 Btu of fuels or chemicals,*  
 24 *produced by the taxpayer during such taxable year at*  
 25 *a qualifying advanced clean coal technology facility*

1        *during the 10-year period beginning on the date the*  
 2        *facility was originally placed in service.*

3        *“(b) APPLICABLE AMOUNT.—For purposes of this sec-*  
 4        *tion, the applicable amount of advanced clean coal tech-*  
 5        *nology production credit with respect to production from*  
 6        *a qualifying advanced clean coal technology facility shall*  
 7        *be determined as follows:*

8                *“(1) Where the design coal has a heat content of*  
 9        *more than 9,000 Btu per pound:*

10                *“(A) In the case of a facility originally*  
 11        *placed in service before 2009, if—*

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 8,400 .....</i>	<i>\$.0060</i>	<i>\$.0038</i>
<i>More than 8,400 but not more than 8,550 .....</i>	<i>\$.0025</i>	<i>\$.0010</i>
<i>More than 8,550 but not more than 8,750 .....</i>	<i>\$.0010</i>	<i>\$.0010.</i>

12                *“(B) In the case of a facility originally*  
 13        *placed in service after 2008 and before 2013,*  
 14        *if—*

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 7,770 .....</i>	<i>\$.0105</i>	<i>\$.0090</i>
<i>More than 7,770 but not more than 8,125 .....</i>	<i>\$.0085</i>	<i>\$.0068</i>
<i>More than 8,125 but not more than 8,350 .....</i>	<i>\$.0075</i>	<i>\$.0055.</i>

15                *“(C) In the case of a facility originally*  
 16        *placed in service after 2012 and before 2017,*  
 17        *if—*

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 7,380 .....</i>	<i>\$.0140</i>	<i>\$.01</i>
<i>More than 7,380 but not more than 7,720 .....</i>	<i>\$.0120</i>	<i>\$.0090.</i>

1                   “(2) Where the design coal has a heat content of  
2                   not more than 9,000 Btu per pound:

3                   “(A) In the case of a facility originally  
4                   placed in service before 2009, if—

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 8,500 .....</i>	<i>\$.0060</i>	<i>\$.0038</i>
<i>More than 8,500 but not more than 8,650 .....</i>	<i>\$.0025</i>	<i>\$.0010</i>
<i>More than 8,650 but not more than 8,750 .....</i>	<i>\$.0010</i>	<i>\$.0010.</i>

5                   “(B) In the case of a facility originally  
6                   placed in service after 2008 and before 2013,  
7                   if—

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 8,000 .....</i>	<i>\$.0105</i>	<i>\$.009</i>
<i>More than 8,000 but not more than 8,250 .....</i>	<i>\$.0085</i>	<i>\$.0068</i>
<i>More than 8,250 but not more than 8,400 .....</i>	<i>\$.0075</i>	<i>\$.0055.</i>

8                   “(C) In the case of a facility originally  
9                   placed in service after 2012 and before 2017,  
10                  if—

<i>“The facility design net heat rate, Btu/kWh (HHV) is equal to:</i>	<i>The applicable amount is:</i>	
	<i>For 1st 5 years of such service</i>	<i>For 2d 5 years of such service</i>
<i>Not more than 7,800 .....</i>	<i>\$.0140</i>	<i>\$.0115</i>
<i>More than 7,800 but not more than 7,950 .....</i>	<i>\$.0120</i>	<i>\$.0090.</i>

11                  “(3) Where the clean coal technology facility is  
12                  producing fuel or chemicals:

1                   “(A) *In the case of a facility originally*  
 2                   *placed in service before 2009, if—*

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent .....	\$.0060	\$.0038
Less than 40.6 but not less than 40 percent .....	\$.0025	\$.0010
Less than 40 but not less than 39 percent .....	\$.0010	\$.0010.

3                   “(B) *In the case of a facility originally*  
 4                   *placed in service after 2008 and before 2013,*  
 5                   *if—*

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent .....	\$.0105	\$.009
Less than 43.9 but not less than 42 percent .....	\$.0085	\$.0068
Less than 42 but not less than 40.9 percent .....	\$.0075	\$.0055.

6                   “(C) *In the case of a facility originally*  
 7                   *placed in service after 2012 and before 2017,*  
 8                   *if—*

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent .....	\$.0140	\$.0115
Less than 44.2 but not less than 43.6 percent .....	\$.0120	\$.0090.

9                   “(c) *INFLATION ADJUSTMENT FACTOR.—For calendar*  
 10                  *years after 2001, each amount in paragraphs (1), (2), and*  
 11                  *(3) shall be adjusted by multiplying such amount by the*  
 12                  *inflation adjustment factor for the calendar year in which*  
 13                  *the amount is applied. If any amount as increased under*  
 14                  *the preceding sentence is not a multiple of 0.01 cent, such*

1 *amount shall be rounded to the nearest multiple of 0.01*  
 2 *cent.*

3 “(d) *DEFINITIONS AND SPECIAL RULES.—For pur-*  
 4 *poses of this section—*

5 “(1) *IN GENERAL.—Any term used in this sec-*  
 6 *tion which is also used in section 48A shall have the*  
 7 *meaning given such term in section 48A.*

8 “(2) *APPLICABLE RULES.—The rules of para-*  
 9 *graphs (3), (4), and (5) of section 45 shall apply.*

10 “(3) *INFLATION ADJUSTMENT FACTOR.—The*  
 11 *term ‘inflation adjustment factor’ means, with respect*  
 12 *to a calendar year, a fraction the numerator of which*  
 13 *is the GDP implicit price deflator for the preceding*  
 14 *calendar year and the denominator of which is the*  
 15 *GDP implicit price deflator for the calendar year*  
 16 *2001.*

17 “(4) *GDP IMPLICIT PRICE DEFLATOR.—The*  
 18 *term ‘GDP implicit price deflator’ means the most re-*  
 19 *cent revision of the implicit price deflator for the*  
 20 *gross domestic product as computed by the Depart-*  
 21 *ment of Commerce before March 15 of the calendar*  
 22 *year.’.*

23 (b) *CREDIT TREATED AS BUSINESS CREDIT.—Section*  
 24 *38(b) is amended by striking “plus” at the end of para-*  
 25 *graph (18), by striking the period at the end of paragraph*

1 (19) and inserting “, plus”, and by adding at the end the  
 2 following:

3 “(20) the qualifying advanced clean coal tech-  
 4 nology production credit determined under section  
 5 45K(a).”.

6 (c) *TRANSITIONAL RULE.*—Section 39(d) (relating to  
 7 transitional rules) is amended by adding after paragraph  
 8 (14) the following:

9 “(15) *NO CARRYBACK OF SECTION 45K CREDIT*  
 10 *BEFORE EFFECTIVE DATE.*—No portion of the unused  
 11 business credit for any taxable year which is attrib-  
 12 utable to the qualifying advanced clean coal tech-  
 13 nology production credit determined under section  
 14 45K may be carried back to a taxable year ending be-  
 15 fore the date of enactment of section 45K.”.

16 (d) *CLERICAL AMENDMENT.*—The table of sections for  
 17 subpart D of part IV of subchapter A of chapter 1 is amend-  
 18 ed by adding at the end the following:

“Sec. 45K. Credit for production from qualifying advanced clean  
 coal technology.”.

19 (e) *EFFECTIVE DATE.*—The amendments made by this  
 20 section shall apply to production after the date of enactment  
 21 of this Act.

## ***TITLE II—RELIABILITY***

### ***SEC. 201. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.***

*(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking “and” at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:*

*“(ii) any natural gas gathering line, and”.*

*(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by adding after paragraph (15) the following new paragraph:*

*“(16) NATURAL GAS GATHERING LINE.—The term ‘natural gas gathering line’ means—*

*“(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or*

*“(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—*

*“(i) a gas processing plant,*

*“(ii) an interconnection with a transmission pipeline certificated by the Federal*



1                   *Energy Regulatory Commission as an*  
 2                   *interstate transmission pipeline,*

3                   “*(iii) an interconnection with an*  
 4                   *intrastate transmission pipeline, or*

5                   “*(iv) a direct interconnection with a*  
 6                   *local distribution company, a gas storage*  
 7                   *facility, or an industrial consumer.*”.

8           (c) *ALTERNATIVE SYSTEM.*—*The table contained in*  
 9           *section 168(g)(3)(B) is amended by inserting after the item*  
 10           *relating to subparagraph (C)(i) the following:*

          “(C)(ii) ..... 10”.

11           (d) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—*Sub-*  
 12           *paragraph (B) of section 56(a)(1) is amended by inserting*  
 13           *before the period the following: “or in clause (ii) of section*  
 14           *168(e)(3)(C)”.*

15           (e) *EFFECTIVE DATE.*—*The amendments made by this*  
 16           *section shall apply to property placed in service after the*  
 17           *date of the enactment of this Act.*

18   **SEC. 202. NATURAL GAS DISTRIBUTION LINES TREATED AS**  
 19                   **10-YEAR PROPERTY.**

20           (a) *IN GENERAL.*—*Subparagraph (D) of section*  
 21           *168(e)(3) (relating to classification of certain property) is*  
 22           *amended by striking “and” at the end of clause (i), by strik-*  
 23           *ing the period at the end of clause (ii) and by inserting*  
 24           *“, and”, and by adding at the end the following new clause:*

1                   “(iii) any natural gas distribution  
2                   line.”

3           (b) *ALTERNATIVE SYSTEM.*—The table contained in  
4 section 168(g)(3)(B) is amended by inserting after the item  
5 relating to subparagraph (D)(ii) the following:

“(D)(iii) ..... 20”.

6           (c) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—Sub-  
7 paragraph (B) of section 56(a)(1) is amended by inserting  
8 before the period the following: “or in clause (iii) of section  
9 168(e)(3)(D)”.

10          (d) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to property placed in service after the  
12 date of the enactment of this Act.

13 **SEC. 203. PETROLEUM REFINING PROPERTY TREATED AS 7-**  
14 **YEAR PROPERTY.**

15          (a) *IN GENERAL.*—Subparagraph (C) of section  
16 168(e)(3) (relating to classification of certain property), as  
17 amended by section 201, is amended by striking “and” at  
18 the end of clause (ii), by redesignating clause (iii) as clause  
19 (iv), and by inserting after clause (ii) the following new  
20 clause:

21                   “(iii) any property used for the dis-  
22                   tillation, fractionation, and catalytic crack-  
23                   ing of crude petroleum into gasoline and its  
24                   other components, and”.

1       (b) *ALTERNATIVE SYSTEM.*—The table contained in  
 2   section 168(g)(3)(B), as amended by section 201, is amend-  
 3   ed by inserting after the item relating to subparagraph  
 4   (C)(ii) the following:

“ (C)(iii) ..... 10”.

5       (c) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—Sub-  
 6   paragraph (B) of section 56(a)(1), as amended by section  
 7   201, is amended by inserting “or (iii)” after “clause (ii)”.

8       (d) *EFFECTIVE DATE.*—The amendment made by this  
 9   section shall apply to property placed in service after the  
 10   date of the enactment of this Act.

11   **SEC. 204. EXPENSING OF CAPITAL COSTS INCURRED IN**  
 12                               **COMPLYING WITH ENVIRONMENTAL PROTEC-**  
 13                               **TION AGENCY SULFUR REGULATIONS.**

14       (a) *IN GENERAL.*—Section 179(b) (relating to election  
 15   to expense certain depreciable business assets) is amended  
 16   by adding at the end the following new paragraph:

17               “(5) *LIMITATION FOR SMALL BUSINESS REFIN-*  
 18       *ERS.*—

19               “(A) *IN GENERAL.*—In the case of a small  
 20       business refiner electing to expense qualified  
 21       costs, in lieu of the dollar limitations in para-  
 22       graph (1), the limitation on the aggregate costs  
 23       which may be taken into account under sub-  
 24       section (a) for any taxable year shall not exceed  
 25       75 percent of the qualified costs.

1           “(B) *QUALIFIED COSTS.*—*For purposes of*  
 2           *this paragraph, the term ‘qualified costs’ means*  
 3           *costs paid or incurred by a small business re-*  
 4           *finer for the purpose of complying with the*  
 5           *Highway Diesel Fuel Sulfur Control Require-*  
 6           *ments of the Environmental Protection Agency.*

7           “(C) *SMALL BUSINESS REFINER.*—*For pur-*  
 8           *poses of this paragraph, the term ‘small business*  
 9           *refiner’ means, with respect to any taxable year,*  
 10          *a refiner which, within the refining operations of*  
 11          *the business, employs not more than 1,500 em-*  
 12          *ployees on business days during such taxable*  
 13          *year performing services in the refining oper-*  
 14          *ations of such businesses and has an average*  
 15          *total capacity of 155,000 barrels per day or*  
 16          *less.”.*

17          (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 18          *section shall apply to expenses paid or incurred after the*  
 19          *date of the enactment of this Act.*

20   **SEC. 205. ENVIRONMENTAL TAX CREDIT.**

21          (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*  
 22          *A of chapter 1 (relating to business-related credits) is*  
 23          *amended by adding at the end the following new section:*

1 **“SEC. 45I. ENVIRONMENTAL TAX CREDIT.**

2       “(a) *IN GENERAL.*—For purposes of section 38, the  
3 amount of the environmental tax credit determined under  
4 this section with respect to any small business refiner for  
5 any taxable year is an amount equal to 5 cents for every  
6 gallon of 15 parts per million or less sulfur diesel produced  
7 at a facility by such small business refiner.

8       “(b) *MAXIMUM CREDIT.*—For any small business re-  
9 finer, the aggregate amount allowable as a credit under sub-  
10 section (a) for any taxable year with respect to any facility  
11 shall not exceed 25 percent of the qualified capital costs in-  
12 curred by such small business refiner with respect to such  
13 facility not taken into account in determining the credit  
14 under subsection (a) for any preceding taxable year.

15       “(c) *DEFINITIONS.*—For purposes of this section—

16               “(1) *SMALL BUSINESS REFINER.*—The term  
17 ‘small business refiner’ means, with respect to any  
18 taxable year, a refiner which, within the refining op-  
19 erations of the business, employs not more than 1,500  
20 employees on business days during such taxable year  
21 performing services in the refining operations of such  
22 businesses and has an average total capacity of  
23 155,000 barrels per day or less.

24               “(2) *QUALIFIED CAPITAL COSTS.*—The term  
25 ‘qualified capital costs’ means, with respect to any fa-  
26 cility, those costs paid or incurred during the appli-

1        *cable period for compliance with the applicable EPA*  
2        *regulations with respect to such facility, including ex-*  
3        *penditures for the construction of new process oper-*  
4        *ation units or the dismantling and reconstruction of*  
5        *existing process units to be used in the production of*  
6        *15 parts per million or less sulfur diesel fuel, associ-*  
7        *ated adjacent or offsite equipment (including tankage,*  
8        *catalyst, and power supply), engineering, construc-*  
9        *tion period interest, and sitework.*

10            *“(3) APPLICABLE EPA REGULATIONS.—The term*  
11        *‘applicable EPA regulations’ means the Highway*  
12        *Diesel Fuel Sulfur Control Requirements of the Envi-*  
13        *ronmental Protection Agency.*

14            *“(4) APPLICABLE PERIOD.—The term ‘applicable*  
15        *period’ means, with respect to any facility, the period*  
16        *beginning on the day after the date of the enactment*  
17        *of this section and ending with the date which is one*  
18        *year after the date on which the taxpayer must com-*  
19        *ply with the applicable EPA regulations with respect*  
20        *to such facility.*

21            *“(d) REDUCTION IN BASIS.—For purposes of this sub-*  
22        *title, if a credit is determined under this section with re-*  
23        *spect to any property by reason of qualified capital costs,*  
24        *the basis of such property shall be reduced by the amount*  
25        *of the credit so determined.*

1 “(e) *CERTIFICATION.*—

2 “(1) *REQUIRED.*—Not later than the date which  
3 is 30 months after the first day of the first taxable  
4 year in which the environmental tax credit is allowed  
5 with respect to a facility, the small business refiner  
6 must obtain certification from the Secretary, in con-  
7 sultation with the Administrator of the Environ-  
8 mental Protection Agency, that the taxpayer’s quali-  
9 fied capital costs with respect to such facility will re-  
10 sult in compliance with the applicable EPA regula-  
11 tions.

12 “(2) *CONTENTS OF APPLICATION.*—An applica-  
13 tion for certification shall include relevant informa-  
14 tion regarding unit capacities and operating charac-  
15 teristics sufficient for the Secretary, in consultation  
16 with the Administrator of the Environmental Protec-  
17 tion Agency, to determine that such qualified capital  
18 costs are necessary for compliance with the applicable  
19 EPA regulations.

20 “(3) *REVIEW PERIOD.*—Any application shall be  
21 reviewed and notice of certification, if applicable,  
22 shall be made within 60 days of receipt of such appli-  
23 cation.

24 “(4) *RECAPTURE.*—Notwithstanding subsection  
25 (f), failure to obtain certification under paragraph

(1) constitutes a recapture event under subsection (f) with an applicable percentage of 100 percent.

“(f) *RECAPTURE OF ENVIRONMENTAL TAX CREDIT.*—

“(1) *IN GENERAL.*—Except as provided in subsection (e), if, as of the close of any taxable year, there is a recapture event with respect to any facility of the small business refiner, then the tax of such refiner under this chapter for such taxable year shall be increased by an amount equal to the product of—

“(A) the applicable recapture percentage,

and

“(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified capital costs of the taxpayer described in subsection (c)(2) with respect to such facility had been zero.

“(2) *APPLICABLE RECAPTURE PERCENTAGE.*—

“(A) *IN GENERAL.*—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

<b>“If the recapture event occurs in:</b>	<b>The applicable recapture percentage is:</b>
Year 1 .....	100
Year 2 .....	80
Year 3 .....	60
Year 4 .....	40
Year 5 .....	20
Years 6 and thereafter .....	0.



1           “(B) *YEARS.*—*For purposes of subpara-*  
 2           *graph (A), year 1 shall begin on the first day of*  
 3           *the taxable year in which the qualified capital*  
 4           *costs with respect to a facility described in sub-*  
 5           *section (c)(2) are paid or incurred by the tax-*  
 6           *payer.*

7           “(3) *RECAPTURE EVENT DEFINED.*—*For pur-*  
 8           *poses of this subsection, the term ‘recapture event’*  
 9           *means—*

10           “(A) *FAILURE TO COMPLY.*—*The failure by*  
 11           *the small business refiner to meet the applicable*  
 12           *EPA regulations within the applicable period*  
 13           *with respect to the facility.*

14           “(B) *CESSATION OF OPERATION.*—*The ces-*  
 15           *sation of the operation of the facility as a facil-*  
 16           *ity which produces 15 parts per million or less*  
 17           *sulfur diesel after the applicable period.*

18           “(C) *CHANGE IN OWNERSHIP.*—

19           “(i) *IN GENERAL.*—*Except as provided*  
 20           *in clause (ii), the disposition of a small*  
 21           *business refiner’s interest in the facility*  
 22           *with respect to which the credit described in*  
 23           *subsection (a) was allowable.*

24           “(ii) *AGREEMENT TO ASSUME RECAP-*  
 25           *TURE LIABILITY.*—*Clause (i) shall not*

1           *apply if the person acquiring such interest*  
2           *in the facility agrees in writing to assume*  
3           *the recapture liability of the person dis-*  
4           *posing of such interest in effect immediately*  
5           *before such disposition. In the event of such*  
6           *an assumption, the person acquiring the in-*  
7           *terest in the facility shall be treated as the*  
8           *taxpayer for purposes of assessing any re-*  
9           *capture liability (computed as if there had*  
10          *been no change in ownership).*

11          “(4) *SPECIAL RULES.*—

12               “(A) *TAX BENEFIT RULE.*—*The tax for the*  
13               *taxable year shall be increased under paragraph*  
14               *(1) only with respect to credits allowed by reason*  
15               *of this section which were used to reduce tax li-*  
16               *ability. In the case of credits not so used to re-*  
17               *duce tax liability, the carryforwards and*  
18               *carrybacks under section 39 shall be appro-*  
19               *priately adjusted.*

20               “(B) *NO CREDITS AGAINST TAX.*—*Any in-*  
21               *crease in tax under this subsection shall not be*  
22               *treated as a tax imposed by this chapter for pur-*  
23               *poses of determining the amount of any credit*  
24               *under this chapter or for purposes of section 55.*

1                   “(C) *NO RECAPTURE BY REASON OF CAS-*  
 2                   *UALTY LOSS.*—*The increase in tax under this*  
 3                   *subsection shall not apply to a cessation of oper-*  
 4                   *ation of the facility by reason of a casualty loss*  
 5                   *to the extent such loss is restored by reconstruc-*  
 6                   *tion or replacement within a reasonable period*  
 7                   *established by the Secretary.*

8                   “(g) *CONTROLLED GROUPS.*—*For purposes of this sec-*  
 9                   *tion, all persons treated as a single employer under sub-*  
 10                  *section (b), (c), (m), or (o) of section 414 shall be treated*  
 11                  *as a single employer.”.*

12                  (b) *CREDIT MADE PART OF GENERAL BUSINESS*  
 13                  *CREDIT.*—*Subsection (b) of section 38 (relating to general*  
 14                  *business credit) is amended by striking “plus” at the end*  
 15                  *of paragraph (16), by striking the period at the end of para-*  
 16                  *graph (17) and inserting “, plus”, and by adding at the*  
 17                  *end the following new paragraph:*

18                         “(18) *in the case of a small business refiner, the*  
 19                         *environmental tax credit determined under section*  
 20                         *45I(a).”.*

21                  (c) *DENIAL OF DOUBLE BENEFIT.*—*Section 280C (re-*  
 22                  *lating to certain expenses for which credits are allowable)*  
 23                  *is amended by adding after subsection (d) the following new*  
 24                  *subsection:*

1       “(e) *ENVIRONMENTAL TAX CREDIT*.—No deduction  
 2 shall be allowed for that portion of the expenses otherwise  
 3 allowable as a deduction for the taxable year which is equal  
 4 to the amount of the credit determined for the taxable year  
 5 under section 45I(a).”.

6       (d) *BASIS ADJUSTMENT*.—Section 1016(a) (relating to  
 7 adjustments to basis) is amended by striking “and” at the  
 8 end of paragraph (33), by striking the period at the end  
 9 of paragraph (34) and inserting “, and”, and by adding  
 10 at the end the following new paragraph:

11               “(35) in the case of a facility with respect to  
 12 which a credit was allowed under section 45I, to the  
 13 extent provided in section 45I(d).”.

14       (e) *CLERICAL AMENDMENT*.—The table of sections for  
 15 subpart D of part IV of subchapter A of chapter 1 is amend-  
 16 ed by adding at the end the following new item:

“Sec. 45I. Environmental tax credit.”.

17       (f) *EFFECTIVE DATE*.—The amendments made by this  
 18 section shall apply to expenses paid or incurred after the  
 19 date of the enactment of this Act.

20       **SEC. 206. DETERMINATION OF SMALL REFINER EXCEPTION**  
 21               **TO OIL DEPLETION DEDUCTION.**

22       (a) *IN GENERAL*.—Paragraph (4) of section 613A(d)  
 23 (relating to certain refiners excluded) is amended to read  
 24 as follows:

1           “(4) *CERTAIN REFINERS EXCLUDED.*—If the tax-  
 2           payer or a related person engages in the refining of  
 3           crude oil, subsection (c) shall not apply to the tax-  
 4           payer for a taxable year if the average daily refinery  
 5           runs of the taxpayer and the related person for the  
 6           taxable year exceed 75,000 barrels. For purposes of  
 7           this paragraph, the average daily refinery runs for  
 8           any taxable year shall be determined by dividing the  
 9           aggregate refinery runs for the taxable year by the  
 10          number of days in the taxable year.”.

11          (b) *EFFECTIVE DATE.*—The amendment made by this  
 12          section shall apply to taxable years beginning after Decem-  
 13          ber 31, 2001.

14   **SEC. 207. TAX-EXEMPT BOND FINANCING OF CERTAIN ELEC-**  
 15                           **TRIC FACILITIES.**

16          (a) *IN GENERAL.*—Subpart A of part IV of subchapter  
 17          B of chapter 1 (relating to tax exemption requirements for  
 18          State and local bonds) is amended by inserting after section  
 19          141 the following new section:

20   **“SEC. 141A. TREATMENT OF GOVERNMENT-OWNED ELEC-**  
 21                           **TRIC OUTPUT FACILITIES.**

22          “(a) *EXCEPTIONS FROM PRIVATE BUSINESS USE LIM-*  
 23          *ITATIONS WHERE OPEN ACCESS REQUIREMENTS MET.*—

24                  “(1) *GENERAL RULE.*—For purposes of this part,  
 25          the term ‘private business use’ shall not include—

1           “(A) any permitted open access activity by  
2           a governmental unit with respect to an electric  
3           output facility owned by such unit, or

4           “(B) any permitted sale of electricity by a  
5           governmental unit which is generated at an ex-  
6           isting generation facility owned by such unit.

7           “(2) *PERMITTED OPEN ACCESS ACTIVITY.*—For  
8           purposes of this section—

9           “(A) *IN GENERAL.*—The term ‘permitted  
10          open access activity’ means any activity meeting  
11          the open access requirements of any of the fol-  
12          lowing clauses with respect to such electric out-  
13          put facility:

14          “(i) *TRANSMISSION AND ANCILLARY*  
15          *FACILITY.*—In the case of a transmission fa-  
16          cility or a facility providing ancillary serv-  
17          ices, the provision of transmission service  
18          and ancillary services meets the open access  
19          requirements of this clause only if such serv-  
20          ices are provided on a nondiscriminatory  
21          open access basis—

22          “(I) pursuant to an open access  
23          transmission tariff filed with and ap-  
24          proved by *FERC*, including an accept-  
25          able reciprocity tariff, or

1                   “(II) under a regional trans-  
2                   mission organization agreement ap-  
3                   proved by FERC.

4                   “(ii) DISTRIBUTION FACILITIES.—In  
5                   the case of a distribution facility, the deliv-  
6                   ery of electric energy meets the open access  
7                   requirements of this clause only if such de-  
8                   livery is made on a nondiscriminatory open  
9                   access basis.

10                  “(iii) GENERATION FACILITIES.—In  
11                  the case of a generation facility, the delivery  
12                  of electric energy generated by such facility  
13                  meets the open access requirements of this  
14                  clause only if—

15                       “(I) such facility is directly con-  
16                       nected to distribution facilities owned  
17                       by the governmental unit which owns  
18                       the generation facility, and

19                       “(II) such distribution facilities  
20                       meet the open access requirements of  
21                       clause (ii).

22                  “(B) SPECIAL RULES.—

23                       “(i) VOLUNTARILY FILED TARIFFS.—  
24                       Subparagraph (A)(i)(I) shall apply in the  
25                       case of a voluntarily filed tariff only if the

1           *governmental unit files a report with FERC*  
 2           *within 90 days after the date of the enact-*  
 3           *ment of this section relating to whether or*  
 4           *not such governmental unit will join a re-*  
 5           *gional transmission organization.*

6           “(ii) *CONTROL OF TRANSMISSION FA-*  
 7           *CILITIES BY REGIONAL TRANSMISSION OR-*  
 8           *GANIZATION.*—*A governmental unit shall be*  
 9           *treated as meeting the open access require-*  
 10          *ments of subparagraph (A)(i) if a regional*  
 11          *transmission organization controls the*  
 12          *transmission facilities.*

13          “(iii) *ERCOT UTILITY.*—*References to*  
 14          *FERC in subparagraph (A) shall be treated*  
 15          *as references to the Public Utility Commis-*  
 16          *sion of Texas with respect to any ERCOT*  
 17          *utility (as defined in section 212(k)(2)(B) of*  
 18          *the Federal Power Act (16 U.S.C.*  
 19          *824k(k)(2)(B))).*

20          “(3) *PERMITTED SALE.*—*For purposes of this*  
 21          *subsection—*

22               “(A) *IN GENERAL.*—*The term ‘permitted*  
 23               *sale’ means—*

24                       “(i) *any sale of electricity to an on-*  
 25                       *system purchaser if the seller meets the open*



1           access requirements of paragraph (2) with  
2           respect to all distribution and transmission  
3           facilities (if any) owned by such seller, and  
4           “(ii) subject to subparagraphs (B) and  
5           (C), any sale of electricity to a wholesale  
6           native load purchaser, and any load loss  
7           sale, if—

8                     “(I) the seller meets the open ac-  
9                     cess requirements of paragraph (2)  
10                    with respect to all transmission facili-  
11                   ties (if any) owned by such seller, or

12                   “(II) in any case in which the  
13                   seller does not own any transmission  
14                   facilities, all persons providing trans-  
15                   mission services to the seller’s wholesale  
16                   native load purchasers meet the open  
17                   access requirements of paragraph (2)  
18                   with respect to all transmission facili-  
19                   ties owned by such persons.

20                   “(B) *LIMITATION ON SALES TO WHOLESAL*  
21                   *NATIVE LOAD PURCHASERS.*—A sale to a whole-  
22                   sale native load purchaser shall be treated as a  
23                   permitted sale only to the extent that—

1           “(i) such purchaser resells the elec-  
 2           tricity directly at retail to persons within  
 3           the purchaser’s distribution area, or

4           “(ii) such electricity is resold by such  
 5           purchaser through one or more wholesale  
 6           purchasers (each of whom as of June 30,  
 7           2000, was a party to a requirements con-  
 8           tract or a firm power contract described in  
 9           paragraph (5)(B)(ii)) to retail purchasers  
 10          in the ultimate wholesale purchaser’s dis-  
 11          tribution area.

12          “(C) LOAD LOSS SALES.—

13           “(i) IN GENERAL.—The term ‘load loss  
 14           sale’ means any sale at wholesale to the ex-  
 15           tent that—

16           “(I) the aggregate sales at whole-  
 17           sale during the recovery period does  
 18           not exceed the load loss mitigation  
 19           sales limit for such period, and

20           “(II) the aggregate sales at whole-  
 21           sale during the first calendar year  
 22           after the recovery period does not ex-  
 23           ceed the excess carried under clause  
 24           (iv) to such year.

1                   “(ii) *LOAD LOSS MITIGATION SALES*  
 2                   *LIMIT.*—*For purposes of clause (i), the load*  
 3                   *loss mitigation sales limit for the recovery*  
 4                   *period is the sum of the annual load losses*  
 5                   *for each year of such period.*

6                   “(iii) *ANNUAL LOAD LOSS.*—*A govern-*  
 7                   *mental unit’s annual load loss for each year*  
 8                   *of the recovery period is the amount (if*  
 9                   *any) by which—*

10                   “(I) *the megawatt hours of electric*  
 11                   *energy sold during such year to whole-*  
 12                   *sale native load purchasers which do*  
 13                   *not constitute private business use are*  
 14                   *less than*

15                   “(II) *the megawatt hours of elec-*  
 16                   *tric energy sold during the base year to*  
 17                   *wholesale native load purchasers which*  
 18                   *do not constitute private business use.*

19                   *The annual load loss for any year shall not*  
 20                   *exceed the portion of the amount determined*  
 21                   *under the preceding sentence which is at-*  
 22                   *tributable to open access requirements.*

23                   “(iv) *CARRYOVERS.*—*If the limitation*  
 24                   *under clause (i) for the recovery period ex-*  
 25                   *ceeds the aggregate sales during such period*

1           *which are taken into account under clause*  
 2           *(i), such excess (but not more than 10 per-*  
 3           *cent of such limitation) may be carried over*  
 4           *to the first calendar year following the re-*  
 5           *covery period.*

6           “(v) *RECOVERY PERIOD.*—*The recovery*  
 7           *period is the 7-year period beginning with*  
 8           *the start-up year.*

9           “(vi) *START-UP YEAR.*—*The start-up*  
 10          *year is the calendar year which includes the*  
 11          *date of the enactment of this section or, if*  
 12          *later, at the election of the governmental*  
 13          *unit—*

14               “(I) *the first year that the govern-*  
 15               *mental unit offers nondiscriminatory*  
 16               *open transmission access, or*

17               “(II) *the first year in which at*  
 18               *least 10 percent of the governmental*  
 19               *unit’s wholesale customers’ aggregate*  
 20               *retail native load is open to retail com-*  
 21               *petition.*

22           “(4) *ON-SYSTEM PURCHASER.*—*For purposes of*  
 23          *this section, the term ‘on-system purchaser’ means*  
 24          *any person whose electric equipment is directly con-*  
 25          *nected with any transmission or distribution facility*

1       *owned by the governmental unit owning the existing*  
 2       *generation facility if—*

3               “(A) *such person—*

4                       “(i) *purchases electric energy from*  
 5                       *such governmental unit at retail, and*

6                       “(ii)(I) *was within such unit’s dis-*  
 7                       *tribution area at the close of the base year*  
 8                       *or*

9                       “(II) *is a person as to whom the gov-*  
 10                       *ernmental unit has a statutory service obli-*  
 11                       *gation, or*

12                       “(B) *is a wholesale native load purchaser*  
 13                       *from such governmental unit.*

14               “(5) *WHOLESALE NATIVE LOAD PURCHASER.—*  
 15       *For purposes of this section—*

16                       “(A) *IN GENERAL.—The term ‘wholesale na-*  
 17                       *tive load purchaser’ means a wholesale purchaser*  
 18                       *as to whom the governmental unit had—*

19                       “(i) *a statutory service obligation at*  
 20                       *wholesale at the close of the base year, or*

21                       “(ii) *an obligation at the close of the*  
 22                       *base year under a requirements or firm*  
 23                       *sales contract if, as of June 30, 2000, such*  
 24                       *contract had been in effect for (or had an*  
 25                       *initial term of) at least 10 years.*

1           “(B) *PERMITTED SALES UNDER EXISTING*  
2           *CONTRACTS.*—*A private business use sale during*  
3           *any year to a wholesale native load purchaser*  
4           *(other than a person to whom the governmental*  
5           *unit had a statutory service obligation) under a*  
6           *contract shall be treated as a permitted sale by*  
7           *reason of being a load loss sale only to the extent*  
8           *that the private business use sales under the con-*  
9           *tract during such year exceed the lesser of—*

10                   “(i) *the private business use sales*  
11                   *under the contract during the base year, or*

12                   “(ii) *the maximum private business*  
13                   *use sales which would (but for this section)*  
14                   *be permitted without causing the bonds to*  
15                   *be private activity bonds.*

16           *This subparagraph shall only apply to the extent*  
17           *that the sale is allocable to bonds issued before*  
18           *the date of the enactment of this section (or*  
19           *bonds issued to refund such bonds).*

20           “(6) *SPECIAL RULES.*—

21                   “(A) *TIME OF SALE RULE.*—*For purposes of*  
22                   *paragraphs (3)(C)(iii) and (5)(B), the deter-*  
23                   *mination of whether a sale after the date of the*  
24                   *enactment of this section is a private business*  
25                   *use shall be made with regard to this section.*

1           “(B) *JOINT ACTION AGENCIES.*—*To the ex-*  
 2           *tent provided in regulations, a joint action agen-*  
 3           *cy, or a member of (or a wholesale native load*  
 4           *purchaser from) a joint action agency, which is*  
 5           *entitled to make a sale described in subpara-*  
 6           *graph (A) or (B) in a year, may transfer the en-*  
 7           *titlement to make that sale to the member (or*  
 8           *purchaser), or the joint action agency, respec-*  
 9           *tively.*

10       “(b) *CERTAIN BONDS FOR TRANSMISSION AND DIS-*  
 11       *TRIBUTION FACILITIES NOT TAX EXEMPT.*—

12           “(1) *IN GENERAL.*—*Section 103 shall not apply*  
 13           *to any bond issued on or after the date of the enact-*  
 14           *ment of this section if any portion of the proceeds of*  
 15           *the issue of which such bond is a part is used (di-*  
 16           *rectly or indirectly) to finance—*

17                   “(A) *any electric transmission facility, or*

18                   “(B) *any start-up electric utility distribu-*  
 19                   *tion facility.*

20       “(2) *EXCEPTIONS RELATING TO TRANSMISSION*  
 21       *FACILITIES.*—*Paragraph (1)(A) shall not apply to*  
 22       *any bond issued to finance—*

23                   “(A) *any repair of a transmission facility*  
 24                   *in service on the date of the enactment of this*  
 25                   *section, so long as the repair does not—*

1           “(i) increase the voltage level of such  
2           facility over its level at the close of the base  
3           year, or

4           “(ii) increase the thermal load limit of  
5           such facility by more than 3 percent over  
6           such limit at the close of the base year,

7           “(B) any qualifying upgrade of an electric  
8           transmission facility in service on the date of the  
9           enactment of this section, or

10          “(C) any transmission facility necessary to  
11          comply with an obligation under a shared or re-  
12          ciprocal transmission agreement in effect on such  
13          date.

14          “(3) *EXCEPTION FOR LOCAL ELECTRIC TRANS-*  
15          *MISSION FACILITY.—For purposes of this subsection—*

16               “(A) *IN GENERAL.—In the case of a govern-*  
17               *mental unit which owns distribution facilities,*  
18               *paragraph (1)(A) shall not apply to any bond*  
19               *issued to finance an electric transmission facility*  
20               *owned by such governmental unit and located*  
21               *within such governmental unit’s distribution*  
22               *area, but only to the extent such facility is, or*  
23               *will be, necessary to supply electricity to serve*  
24               *the retail native load, or wholesale native load,*  
25               *of such governmental unit or of 1 or more other*



1        *governmental units owning distribution facilities*  
2        *which are directly connected to such electric*  
3        *transmission facility.*

4                “(B) *RETAIL LOAD.*—*The term ‘retail load’*  
5        *means, with respect to a governmental unit, the*  
6        *electric load of end-users in the distribution area*  
7        *of the governmental unit.*

8                “(C) *WHOLESALE NATIVE LOAD.*—*The term*  
9        *‘wholesale native load’ means—*

10               “(i) *the retail load of such unit’s*  
11               *wholesale native load purchasers (or of an*  
12               *ultimate wholesale purchaser described in*  
13               *subsection (a)(3)(B)(ii)), and*

14               “(ii) *the electric load of purchasers*  
15               *(not described in clause (i)) under wholesale*  
16               *requirements contracts which—*

17               “(I) *do not constitute private*  
18               *business use (determined without re-*  
19               *gard to this section), and*

20               “(II) *were in effect in the base*  
21               *year.*

22               “(D) *NECESSARY TO SERVE LOAD.*—*For*  
23        *purposes of determining whether a transmission*  
24        *facility is, or will be, necessary to supply elec-*

1        *tricity to retail native load or wholesale native*  
2        *load—*

3                *“(i) the governmental unit’s available*  
4                *transmission rights shall be taken into ac-*  
5                *count,*

6                *“(ii) electric reliability standards or*  
7                *requirements of national or regional reli-*  
8                *ability organizations, regional transmission*  
9                *organizations and the Electric Reliability*  
10               *Council of Texas shall be taken into ac-*  
11               *count, and*

12               *“(iii) transmission, siting and con-*  
13               *struction decisions of regional transmission*  
14               *organizations and State and Federal regu-*  
15               *latory and siting agencies, after a pro-*  
16               *ceeding that provides for public input, shall*  
17               *be presumptive evidence regarding whether*  
18               *transmission facilities are necessary to serve*  
19               *native load.*

20               *“(E) QUALIFYING UPGRADE.—The term*  
21               *‘qualifying upgrade’ means an improvement or*  
22               *addition to transmission facilities of the govern-*  
23               *mental unit in service on the date of the enact-*  
24               *ment of this section which—*

1           “(i) is ordered or approved by a re-  
2           gional transmission organization or by a  
3           State regulatory or siting agency, after a  
4           proceeding that provides for public input,  
5           and

6           “(ii) is, or will be, necessary to supply  
7           electricity to serve the retail native load, or  
8           wholesale native load, of such governmental  
9           unit or of one or more governmental units  
10          owning distribution facilities which are di-  
11          rectly connected to such transmission facil-  
12          ity.

13          “(4) *START-UP ELECTRIC UTILITY DISTRIBUTION*  
14          *FACILITY DEFINED.*—For purposes of this subsection,  
15          the term ‘start-up electric utility distribution facility’  
16          means any distribution facility to provide electric  
17          service for sale to the public if such facility is placed  
18          in service—

19               “(A) by a governmental unit that did not  
20               operate an electric utility on the date of the en-  
21               actment of this section, and

22               “(B) during the first 10 years after the date  
23               such governmental unit begins operating an elec-  
24               tric utility.

1     *A governmental unit is treated as having operated an*  
 2     *electric utility on the date of the enactment of this*  
 3     *section if it operates electric output facilities which*  
 4     *were (on such date) operated by another governmental*  
 5     *unit to provide electric service for sale to the public.*

6             “(5) *EXCEPTION FOR REFUNDING BONDS.*—

7                 “(A) *IN GENERAL.*—Paragraph (1) shall  
 8             *not apply to any eligible refunding bond.*

9                 “(B) *ELIGIBLE REFUNDING BOND.*—For  
 10             *purposes of subparagraph (A), the term ‘eligible*  
 11             *refunding bond’ means any bond (or series of*  
 12             *bonds) issued to refund any bond issued before*  
 13             *the date of the enactment of this section if the av-*  
 14             *erage maturity date of the issue of which the re-*  
 15             *funding bond is a part is not later than the av-*  
 16             *erage maturity date of the bonds to be refunded*  
 17             *by such issue.*

18             “(c) *DEFINITIONS; SPECIAL RULES.*—For purposes of  
 19     *this section—*

20                 “(1) *BASE YEAR.*—The term ‘base year’ means—

21                     “(A) *the calendar year preceding the start-*  
 22             *up year, or*

23                     “(B) *at the election of the governmental*  
 24             *unit, the second or third calendar years pre-*  
 25             *ceding the start-up year.*

1           “(2) *DISTRIBUTION AREA*.—The term ‘distribu-  
 2           tion area’ means the area in which a governmental  
 3           unit owns distribution facilities.

4           “(3) *ELECTRIC OUTPUT FACILITY*.—The term  
 5           ‘electric output facility’ means an output facility that  
 6           is an electric generation, transmission, or distribution  
 7           facility.

8           “(4) *DISTRIBUTION FACILITY*.—The term ‘dis-  
 9           tribution facility’ means an electric output facility  
 10          that is not a generation or transmission facility.

11          “(5) *TRANSMISSION FACILITY*.—The term ‘trans-  
 12          mission facility’ means an electric output facility  
 13          (other than a generation facility) that operates at an  
 14          electric voltage of 69 kV or greater. To the extent pro-  
 15          vided in regulations, such term includes any output  
 16          facility that FERC determines is a transmission fa-  
 17          cility under standards applied by FERC under the  
 18          Federal Power Act (as in effect on the date of the en-  
 19          actment of this section).

20          “(6) *EXISTING GENERATION FACILITY*.—

21                 “(A) *IN GENERAL*.—The term ‘existing gen-  
 22                 eration facility’ means any electric generation  
 23                 facility if—

24                         “(i) such facility is originally placed  
 25                         in service on or before the date of enactment

1           *of this Act and is owned by any govern-*  
 2           *mental unit on such date, or*

3           “(ii) *such facility is originally placed*  
 4           *in service after such date if the construction*  
 5           *of the facility commenced before June 1,*  
 6           *2000, and such facility is owned by any*  
 7           *governmental unit when it is placed in*  
 8           *service.*

9           “(B) *DENIAL OF TREATMENT TO EXPAN-*  
 10          *SIONS.—Such term shall not include any facility*  
 11          *to the extent the generating capacity of such fa-*  
 12          *cility as of any date is 3 percent above the great-*  
 13          *er of its nameplate or rated capacity as of the*  
 14          *date of the enactment of this section (or, in the*  
 15          *case of a facility described in subparagraph*  
 16          *(A)(ii), the date that the facility is placed in*  
 17          *service).*

18          “(7) *REGIONAL TRANSMISSION ORGANIZATION.—*  
 19          *The term ‘regional transmission organization’ in-*  
 20          *cludes an independent system operator.*

21          “(8) *FERC.—The term ‘FERC’ means the Fed-*  
 22          *eral Energy Regulatory Commission.*

23          “(9) *GOVERNMENT-OWNED FACILITY.—An elec-*  
 24          *tric transmission facility shall be treated as owned by*

1       *a governmental unit as of any date to the extent*  
 2       *that—*

3               “(A) *such unit acquired (before the base*  
 4               *year) long-term firm transmission capacity (as*  
 5               *determined under regulations) of such facility for*  
 6               *the purposes of serving customers to which such*  
 7               *unit had at the close of the base year—*

8                       “(i) *a statutory service obligation, or*

9                       “(ii) *an obligation under a require-*  
 10                      *ments contract, and*

11               “(B) *such unit holds such capacity as of*  
 12               *such date.*

13               “(10) *STATUTORY SERVICE OBLIGATION.—The*  
 14               *term ‘statutory service obligation’ means an obliga-*  
 15               *tion under State or Federal law (exclusive of an obli-*  
 16               *gation arising solely under a contract entered into*  
 17               *with a person) to provide electric distribution services*  
 18               *or electric sales services, as provided in such law.*

19               “(11) *CONTRACT MODIFICATIONS.—A material*  
 20               *modification of a contract shall be treated as a new*  
 21               *contract.*

22               “(d) *ELECTION TO TERMINATE TAX-EXEMPT BOND*  
 23       *FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILI-*  
 24       *TIES.—*

1           “(1) *IN GENERAL.*—*At the election of a govern-*  
 2           *mental unit, section 103(a) shall not apply to any*  
 3           *bond issued by or on behalf of such unit after the date*  
 4           *of such election if any portion of the proceeds of the*  
 5           *issue of which such bond is a part are used to provide*  
 6           *any electric output facilities. Such an election, once*  
 7           *made, shall be irrevocable.*

8           “(2) *OTHER EFFECTS OF ELECTION.*—*During*  
 9           *the period that the election under paragraph (1) is in*  
 10           *effect with respect to a governmental unit, the term*  
 11           *‘private activity bond’ shall not include—*

12                   “(A) *any bond issued by such unit before*  
 13                   *the date of the enactment of this section to pro-*  
 14                   *vide an electric output facility if, as of the date*  
 15                   *of the election, such bond was not a private ac-*  
 16                   *tivity bond, and*

17                   “(B) *any bond to which paragraph (1) does*  
 18                   *not apply by reason of paragraph (3).*

19           “(3) *EXCEPTIONS FOR CERTAIN PROPERTY.*—

20                   “(A) *IN GENERAL.*—*Paragraph (1) shall*  
 21                   *not apply to any bond issued to provide property*  
 22                   *owned by a governmental unit if such property*  
 23                   *is—*

24                           “(i) *any qualifying transmission facil-*  
 25                           *ity,*



1                   “(ii) *any qualifying distribution facil-*  
2                   *ity,*

3                   “(iii) *any facility necessary to meet*  
4                   *Federal or State environmental require-*  
5                   *ments applicable to an existing generation*  
6                   *facility owned by the governmental unit as*  
7                   *of the date of the election,*

8                   “(iv) *any property to repair any exist-*  
9                   *ing generation facility owned by the govern-*  
10                  *mental unit as of the date of the election,*

11                  “(v) *any qualified facility (as defined*  
12                  *in section 45(c)(3)) producing electricity*  
13                  *from any qualified energy resource (as de-*  
14                  *fined in section 45(c)(1)), and*

15                  “(vi) *any energy property (as defined*  
16                  *in section 48(a)(3)) placed in service during*  
17                  *a period that the energy percentage under*  
18                  *section 48(a) is greater than zero.*

19                  “(B) *LIMITATION ON USE BY NONGOVERN-*  
20                  *MENTAL PERSONS.—Subparagraph (A) shall not*  
21                  *apply to any property constructed, acquired or*  
22                  *financed for a principal purpose of providing the*  
23                  *facility (or the output thereof) to nongovern-*  
24                  *mental persons.*

1           “(4) *DEFINITIONS.—For purposes of this*  
 2           *subsection—*

3                   “(A) *QUALIFYING DISTRIBUTION FACIL-*  
 4                   *ITY.—The term ‘qualifying distribution facility’*  
 5                   *means a distribution facility meeting the open*  
 6                   *access requirements of subsection (a)(2)(A)(ii).*

7                   “(B) *QUALIFYING TRANSMISSION FACIL-*  
 8                   *ITY.—The term ‘qualifying transmission facility’*  
 9                   *means a local transmission facility (as defined*  
 10                   *in subsection (b)(3)) meeting the open access re-*  
 11                   *quirements of subsection (a)(2)(A)(i).*

12           “(5) *EFFECT OF ELECTION.—*

13                   “(A) *IN GENERAL.—An election under*  
 14                   *paragraph (1) shall be binding on any successor*  
 15                   *in interest to, or any related party with respect*  
 16                   *to, the electing governmental unit. For purposes*  
 17                   *of this paragraph, a governmental unit shall be*  
 18                   *treated as related to another governmental unit*  
 19                   *if it is a member of the same controlled group*  
 20                   *(as determined under regulations).*

21                   “(B) *TREATMENT OF ELECTING GOVERN-*  
 22                   *MENTAL UNIT.—A governmental unit which*  
 23                   *makes an election under paragraph (1) shall be*  
 24                   *treated for purposes of section 141 as a person—*

1                   “(i) *which is not a governmental unit,*  
 2                   *and*  
 3                   “(ii) *which is engaged in a trade or*  
 4                   *business,*  
 5                   *with respect to its purchase of electricity gen-*  
 6                   *erated by an electric output facility placed in*  
 7                   *service after the date of such election if such pur-*  
 8                   *chase is under a contract executed after such*  
 9                   *date.”*

10       (b) *WAIVER OF CERTAIN LIMITATIONS NOT TO APPLY*  
 11 *TO DISTRIBUTION FACILITIES.*—Section 141(d)(5) is  
 12 *amended by inserting “(except in the case of an electric out-*  
 13 *put facility that is a distribution facility)” after “this sub-*  
 14 *section”.*

15       (c) *CLERICAL AMENDMENT.*—The table of sections for  
 16 *subpart A of part IV of subchapter B of chapter 1 is amend-*  
 17 *ed by inserting after the item relating to section 141 the*  
 18 *following new item:*

*“Sec. 141A. Treatment of government-owned electric output facili-*  
*ties.”*

19       (d) *EFFECTIVE DATE.*—

20           (1) *IN GENERAL.*—The amendments made by  
 21 *this section shall take effect on the date of the enact-*  
 22 *ment of this Act, except that a governmental unit*  
 23 *may elect to have section 141A(a)(1) of the Internal*

1     *Revenue Code of 1986, as added by subsection (a),*  
 2     *take effect on April 14, 1996.*

3           (2) *BINDING CONTRACTS.—The amendment*  
 4     *made by subsection (b) (relating to waiver of certain*  
 5     *limitations not to apply to distribution facilities)*  
 6     *shall not apply to facilities acquired pursuant to a*  
 7     *contract which was entered into before the date of the*  
 8     *enactment of this Act and which was binding on such*  
 9     *date and at all times thereafter before such acquisi-*  
 10    *tion.*

11           (3) *COMPARABLE TREATMENT TO BONDS UNDER*  
 12    *1954 CODE RULES.—References in the amendments*  
 13    *made by this Act to sections of the Internal Revenue*  
 14    *Code of 1986 shall be deemed to include references to*  
 15    *comparable sections of the Internal Revenue Code of*  
 16    *1954.*

17    **SEC. 208. SALES OR DISPOSITIONS TO IMPLEMENT FED-**  
 18                   **ERAL ENERGY REGULATORY COMMISSION OR**  
 19                   **STATE ELECTRIC RESTRUCTURING POLICY.**

20           (a) *IN GENERAL.—Section 1033 (relating to involun-*  
 21    *tary conversions) is amended by redesignating subsection*  
 22    *(k) as subsection (l) and by inserting after subsection (j)*  
 23    *the following new subsection:*

1       “(k) *SALES OR DISPOSITIONS TO IMPLEMENT FED-*  
 2 *ERAL ENERGY REGULATORY COMMISSION OR STATE ELEC-*  
 3 *TRIC RESTRUCTURING POLICY.*—

4               “(1) *IN GENERAL.*—For purposes of this subtitle,  
 5       if a taxpayer elects the application of this subsection  
 6       to a qualifying electric transmission transaction—

7               “(A) such transaction shall be treated as an  
 8       involuntary conversion to which this section ap-  
 9       plies, and

10              “(B) exempt utility property shall be treat-  
 11       ed as property which is similar or related in  
 12       service or use to the property disposed of in such  
 13       transaction.

14              “(2) *EXTENSION OF REPLACEMENT PERIOD.*—In  
 15       the case of any involuntary conversion described in  
 16       paragraph (1), subsection (a)(2)(B) shall be applied  
 17       by substituting ‘4 years’ for ‘2 years’ in clause (i)  
 18       thereof.

19              “(3) *QUALIFYING ELECTRIC TRANSMISSION*  
 20 *TRANSACTION.*—For purposes of this subsection, the  
 21       term ‘qualifying electric transmission transaction’  
 22       means any sale or other disposition before January 1,  
 23       2009, of—

24              “(A) property used in the trade or business  
 25       of providing electric transmission services, or

1           “(B) any stock or partnership interest in a  
2           corporation or partnership, as the case may be,  
3           whose principal trade or business consists of pro-  
4           viding electric transmission services,  
5           but only if such sale or disposition is to an inde-  
6           pendent transmission company.

7           “(4) *INDEPENDENT TRANSMISSION COMPANY.*—  
8           For purposes of this subsection, the term ‘independent  
9           transmission company’ means—

10           “(A) a regional transmission organization  
11           approved by the Federal Energy Regulatory  
12           Commission,

13           “(B) a person—

14           “(i) who the Federal Energy Regu-  
15           latory Commission determines in its au-  
16           thorization of the transaction under section  
17           203 of the Federal Power Act (16 U.S.C.  
18           823b) is not a market participant within  
19           the meaning of such Commission’s rules ap-  
20           plicable to regional transmission organiza-  
21           tions, and

22           “(ii) whose transmission facilities to  
23           which the election under this subsection ap-  
24           plies are under the operational control of a  
25           Federal Energy Regulatory Commission-ap-

1           *proved regional transmission organization*  
 2           *before the close of the period specified in*  
 3           *such authorization, but not later than the*  
 4           *close of the period applicable under sub-*  
 5           *section (a)(2)(B) as extended under para-*  
 6           *graph (2), or*

7           *“(C) in the case of facilities subject to the*  
 8           *exclusive jurisdiction of the Public Utility Com-*  
 9           *mission of Texas, a person which is approved by*  
 10           *that Commission as consistent with Texas State*  
 11           *law regarding an independent transmission or-*  
 12           *ganization.*

13           *“(5) EXEMPT UTILITY PROPERTY.—For purposes*  
 14           *of this subsection—*

15           *“(A) IN GENERAL.—The term ‘exempt util-*  
 16           *ity property’ means property used in the trade*  
 17           *or business of—*

18           *“(i) generating, transmitting, distrib-*  
 19           *uting, or selling electricity, or*

20           *“(ii) producing, transmitting, distrib-*  
 21           *uting, or selling natural gas.*

22           *“(B) NONRECOGNITION OF GAIN BY REASON*  
 23           *OF ACQUISITION OF STOCK.—Acquisition of con-*  
 24           *trol of a corporation shall be taken into account*  
 25           *under this section with respect to a qualifying*

1       *electric transmission transaction only if the*  
 2       *principal trade or business of such corporation is*  
 3       *a trade or business referred to in subparagraph*  
 4       *(A).*

5       “(6) *SPECIAL RULE FOR CONSOLIDATED*  
 6       *GROUPS.—In the case of a corporation which is a*  
 7       *member of an affiliated group filing a consolidated*  
 8       *return, such corporation shall be treated as satisfying*  
 9       *the purchase requirement of subsection (a)(2) with re-*  
 10       *spect to any qualifying electric transmission trans-*  
 11       *action engaged in by such corporation to the extent*  
 12       *such requirement is satisfied by another member of*  
 13       *such group.*

14       “(7) *ELECTION.—An election under paragraph*  
 15       *(1), once made, shall be irrevocable.”*

16       “(b) *EXCEPTION FROM GAIN RECOGNITION UNDER SEC-*  
 17       *TION 1245.—Subsection (b) of section 1245 is amended by*  
 18       *adding at the end the following new paragraph:*

19       “(9) *DISPOSITIONS TO IMPLEMENT FEDERAL EN-*  
 20       *ERGY REGULATORY COMMISSION OR STATE ELECTRIC*  
 21       *RESTRUCTURING POLICY.—At the election of the tax-*  
 22       *payer, the amount of gain which would (but for this*  
 23       *paragraph) be recognized under this section on any*  
 24       *qualified electric transmission transaction (as defined*  
 25       *in section 1033(k)) for which an election under sec-*



1        *tion 1033 is made shall be reduced by the aggregate*  
 2        *reduction in the basis of section 1245 property held*  
 3        *by the taxpayer or, if insufficient, by a member of an*  
 4        *affiliated group which includes the taxpayer at any*  
 5        *time during the taxable year in which such trans-*  
 6        *action occurred. The manner and amount of such re-*  
 7        *duction shall be determined under regulations pre-*  
 8        *scribed by the Secretary.”*

9        *(c) EFFECTIVE DATE.—The amendments made by this*  
 10       *section shall apply to transactions occurring after the date*  
 11       *of the enactment of this Act.*

12       **SEC. 209. DISTRIBUTIONS OF STOCK TO IMPLEMENT FED-**  
 13                                **ERAL ENERGY REGULATORY COMMISSION OR**  
 14                                **STATE ELECTRIC RESTRUCTURING POLICY.**

15       *(a) IN GENERAL.—Subparagraph (A) of section*  
 16       *355(e)(3) (relating to special rules relating to acquisitions)*  
 17       *is amended by inserting after clause (iv) the following new*  
 18       *clause:*

19                                *“(v) The acquisition of stock in any*  
 20                                *controlled corporation in a qualifying elec-*  
 21                                *tric transmission transaction (as defined in*  
 22                                *section 1033(k)).”.*

23       *(b) EFFECTIVE DATE.—The amendment made by sub-*  
 24       *section (a) shall apply to distributions after the date of the*  
 25       *enactment of this Act.*

1 **SEC. 210. MODIFICATIONS TO SPECIAL RULES FOR NU-**  
 2 **CLEAR DECOMMISSIONING COSTS.**

3 (a) *REPEAL OF LIMITATION ON DEPOSITS INTO FUND*  
 4 *BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER*  
 5 *FUNDING PERIOD.*—Subsection (b) of section 468A is  
 6 *amended to read as follows:*

7 “(b) *LIMITATION ON AMOUNTS PAID INTO FUND.*—

8 “(1) *IN GENERAL.*—*The amount which a tax-*  
 9 *payer may pay into the Fund for any taxable year*  
 10 *shall not exceed the ruling amount applicable to such*  
 11 *taxable year.*

12 “(2) *CONTRIBUTIONS AFTER FUNDING PERIOD.*—  
 13 *Notwithstanding any other provision of this section,*  
 14 *a taxpayer may pay into the Fund in any taxable*  
 15 *year after the last taxable year to which the ruling*  
 16 *amount applies. Payments may not be made under*  
 17 *the preceding sentence to the extent such payments*  
 18 *would cause the assets of the Fund to exceed the nu-*  
 19 *clear decommissioning costs allocable to the tax-*  
 20 *payer’s current or former interest in the nuclear pow-*  
 21 *erplant to which the Fund relates. The limitation*  
 22 *under the preceding sentence shall be determined by*  
 23 *taking into account a reasonable rate of inflation for*  
 24 *the nuclear decommissioning costs and a reasonable*  
 25 *after-tax rate of return on the assets of the Fund until*  
 26 *such assets are anticipated to be expended.”.*

1       (b) *CLARIFICATION OF TREATMENT OF FUND TRANS-*  
 2 *FERS.*—*Subsection (e) of section 468A is amended by add-*  
 3 *ing at the end the following new paragraph:*

4               “(8) *TREATMENT OF FUND TRANSFERS.*—*If, in*  
 5 *connection with the transfer of the taxpayer’s interest*  
 6 *in a nuclear powerplant, the taxpayer transfers the*  
 7 *Fund with respect to such powerplant to the trans-*  
 8 *feree of such interest and the transferee elects to con-*  
 9 *tinue the application of this section to such Fund—*

10               “(A) *the transfer of such Fund shall not*  
 11 *cause such Fund to be disqualified from the ap-*  
 12 *plication of this section, and*

13               “(B) *no amount shall be treated as distrib-*  
 14 *uted from such Fund, or be includible in gross*  
 15 *income, by reason of such transfer.”.*

16       (c) *TREATMENT OF CERTAIN DECOMMISSIONING*  
 17 *COSTS.*—

18               (1) *IN GENERAL.*—*Section 468A is amended by*  
 19 *redesignating subsections (f) and (g) as subsections*  
 20 *(g) and (h), respectively, and by inserting after sub-*  
 21 *section (e) the following new subsection:*

22               “(f) *TRANSFERS INTO QUALIFIED FUNDS.*—

23               “(1) *IN GENERAL.*—*Notwithstanding subsection*  
 24 *(b), any taxpayer maintaining a Fund to which this*  
 25 *section applies with respect to a nuclear powerplant*

1        *may transfer into such Fund up to an amount equal*  
 2        *to the excess of the total nuclear decommissioning*  
 3        *costs with respect to such nuclear powerplant over the*  
 4        *portion of such costs taken into account in deter-*  
 5        *mining the ruling amount in effect immediately be-*  
 6        *fore the transfer.*

7               “(2)    *DEDUCTION    FOR    AMOUNTS    TRANS-*  
 8        *FERRED.—*

9               “(A) *IN GENERAL.—The deduction allowed*  
 10        *by subsection (a) for any transfer permitted by*  
 11        *this subsection shall be allowed ratably over the*  
 12        *remaining estimated useful life (within the*  
 13        *meaning of subsection (d)(2)(A)) of the nuclear*  
 14        *powerplant beginning with the taxable year dur-*  
 15        *ing which the transfer is made.*

16               “(B) *DENIAL OF DEDUCTION FOR PRE-*  
 17        *VIOUSLY DEDUCTED AMOUNTS.—No deduction*  
 18        *shall be allowed for any transfer under this sub-*  
 19        *section of an amount for which a deduction was*  
 20        *previously allowed or a corresponding amount*  
 21        *was not included in gross income. For purposes*  
 22        *of the preceding sentence, a ratable portion of*  
 23        *each transfer shall be treated as being from pre-*  
 24        *viously deducted or excluded amounts to the ex-*  
 25        *tent thereof.*

“(C) *TRANSFERS OF QUALIFIED FUNDS.*—

*If—*

“(i) *any transfer permitted by this subsection is made to any Fund to which this section applies, and*

“(ii) *such Fund is transferred thereafter,*

*any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not to the transferor. The preceding sentence shall not apply if the transferor is an organization exempt from tax imposed by this chapter.*

“(D) *SPECIAL RULES.*—

“(i) *GAIN OR LOSS NOT RECOGNIZED.*—*No gain or loss shall be recognized on any transfer permitted by this subsection.*

“(ii) *TRANSFERS OF APPRECIATED PROPERTY.*—*If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall be the adjusted basis of such property.*

“(3) *NEW RULING AMOUNT REQUIRED.*—*Paragraph (1) shall not apply to any transfer unless the*

1        *taxpayer requests from the Secretary a new schedule*  
 2        *of ruling amounts in connection with such transfer.*

3                *“(4) NO BASIS IN QUALIFIED FUNDS.—Notwith-*  
 4        *standing any other provision of law, the taxpayer’s*  
 5        *basis in any Fund to which this section applies shall*  
 6        *not be increased by reason of any transfer permitted*  
 7        *by this subsection.”.*

8                *(2) NEW RULING AMOUNT TO TAKE INTO AC-*  
 9        *COUNT TOTAL COSTS.—Subparagraph (A) of section*  
 10        *468A(d)(2) is amended to read as follows:*

11                *“(A) fund the total nuclear decommis-*  
 12        *sioning costs with respect to such powerplant*  
 13        *over the estimated useful life of such powerplant,*  
 14        *and”.*

15        *(d) DEDUCTION FOR NUCLEAR DECOMMISSIONING*  
 16        *COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is*  
 17        *amended to read as follows:*

18                *“(2) DEDUCTION OF NUCLEAR DECOMMISSIONING*  
 19        *COSTS.—In addition to any deduction under sub-*  
 20        *section (a), nuclear decommissioning costs paid or in-*  
 21        *curring by the taxpayer during any taxable year shall*  
 22        *constitute ordinary and necessary expenses in car-*  
 23        *rying on a trade or business under section 162.”.*

1       (e) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to taxable years beginning after Decem-*  
 3 *ber 31, 2001.*

4 **SEC. 211. TREATMENT OF CERTAIN INCOME OF COOPERA-**  
 5 **TIVES.**

6       (a) *INCOME FROM OPEN ACCESS AND NUCLEAR DE-*  
 7 *COMMISSIONING TRANSACTIONS.*—

8           (1) *IN GENERAL.*—*Subparagraph (C) of section*  
 9 *501(c)(12) is amended by striking “or” at the end of*  
 10 *clause (i), by striking the period at the end of clause*  
 11 *(ii) and inserting a comma, and by adding at the end*  
 12 *the following new clauses:*

13                   “(iii) *from any open access transaction*  
 14                   *(other than income received or accrued di-*  
 15                   *rectly or indirectly from a member), or*

16                   “(iv) *from any nuclear decommis-*  
 17                   *sioning transaction.*”

18           (2) *DEFINITIONS.*—*Paragraph (12) of section*  
 19 *501(c) is amended by adding at the end the following*  
 20 *new subparagraph:*

21                   “(E) *For purposes of subparagraph (C)—*

22                           “(i) *The term ‘open access transaction’*  
 23                           *means any activity which would be a per-*  
 24                           *mitted open access activity (as defined in*

1                    *section 141A(a)(2)) if the cooperative were a*  
 2                    *governmental unit.*

3                    “(ii) The term ‘nuclear decommis-

4                    *sioning transaction’ means—*

5                    “(I) any transfer into a trust,

6                    *fund, or instrument established to pay*

7                    *any nuclear decommissioning costs if*

8                    *the transfer is in connection with the*

9                    *transfer of the cooperative’s interest in*

10                   *a nuclear powerplant or nuclear pow-*

11                   *erplant unit,*

12                   “(II) any distribution from such

13                   *a trust, fund, or instrument, or*

14                   “(III) any earnings from such a

15                   *trust, fund, or instrument.”*

16                   *(b) INCOME FROM LOAD LOSS TRANSACTIONS TREAT-*

17                   *ED AS MEMBER INCOME.—Paragraph (12) of section 501(c)*

18                   *is amended by adding after subparagraph (E) the following*

19                   *new subparagraph:*

20                   “(F)(i) In the case of a mutual or coopera-

21                   *tive electric company, income received or accrued*

22                   *from a load loss transaction shall be treated as*

23                   *an amount collected from members for the sole*

24                   *purpose of meeting losses and expenses.*



1           “(ii) For purposes of clause (i), the term  
 2           ‘load loss transaction’ means any sale (whether  
 3           at wholesale or at retail) which would be a load  
 4           loss sale under rules similar to the rules of sec-  
 5           tion 141A(3)(C).

6           “(iii) A company shall not fail to be treated  
 7           as a mutual cooperative company for purposes of  
 8           this paragraph by reason of the treatment under  
 9           clause (i).

10           “(iv) A rule similar to the rule of this sub-  
 11           paragraph shall apply to an organization to  
 12           which section 1381 does not apply by reason of  
 13           section 1381(a)(2)(C).”

14           (c) *EXCEPTION FROM UNRELATED BUSINESS TAX-*  
 15           *ABLE INCOME.*—Subsection (b) of section 512 (relating to  
 16           modifications) is amended by adding at the end the fol-  
 17           lowing new paragraph:

18           “(18) *TREATMENT OF LOAD LOSS SALES OF MU-*  
 19           *TUAL OR COOPERATIVE ELECTRIC COMPANIES.*—In  
 20           the case of a mutual or cooperative electric company  
 21           described in section 501(c)(12), there shall be excluded  
 22           income which is treated as member income under sub-  
 23           paragraph (F) thereof.”

1       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to taxable years beginning after the date*  
 3 *of the enactment of this Act.*

4 **SEC. 212. REPEAL OF REQUIREMENT OF CERTAIN AP-**  
 5 **PROVED TERMINALS TO OFFER DYED DIESEL**  
 6 **FUEL AND KEROSENE FOR NONTAXABLE PUR-**  
 7 **POSES.**

8       *Section 4101 (relating to certain approved terminals*  
 9 *of registered persons required to offer dyed diesel fuel and*  
 10 *kerosene for nontaxable purposes) is amended by striking*  
 11 *subsection (e).*

12 **SEC. 213. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**  
 13 **MENTS FOR NATURAL GAS.**

14       (a) *IN GENERAL.*—*Subsection (b) of section 148 (de-*  
 15 *fining higher yielding investments) is amended by adding*  
 16 *at the end the following new paragraph:*

17               “(4) *EXCEPTION FOR CERTAIN PREPAYMENTS TO*  
 18 *ENSURE NATURAL GAS SUPPLY.*—*The term ‘invest-*  
 19 *ment property’ shall not include any prepayment for*  
 20 *the purpose of obtaining a supply of a natural gas—*

21                       “(A) *at least 85 percent of which is to be*  
 22 *used in the State in which the issuer is located,*  
 23 *and*

24                       “(B) *which is to be used in a business of*  
 25 *one or more utilities each of which is owned and*

1           *operated by a State or local government, any po-*  
 2           *litical subdivision or instrumentality thereof, or*  
 3           *any governmental unit acting for or on behalf of*  
 4           *such a utility.”.*

5           ***(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY***  
 6           ***TO PREPAYMENTS FOR NATURAL GAS.***—*Paragraph (2) of*  
 7           *section 141(c) (providing exceptions to the private loan fi-*  
 8           *nancing test) is amended by striking “or” at the end of*  
 9           *subparagraph (A), by striking the period at the end of sub-*  
 10          *paragraph (B) and inserting “, or”, and by adding at the*  
 11          *end the following new subparagraph:*

12                       *“(C) arises from a transaction described in*  
 13                       *section 148(b)(4).”.*

14          ***(c) EFFECTIVE DATE.***—*The amendments made by this*  
 15          *section shall apply to obligations issued after October 22,*  
 16          *1986; except that section 148(b)(4)(A) of the Internal Rev-*  
 17          *enue Code of 1986, as added by this section, shall apply*  
 18          *only to obligations issued after the date of the enactment*  
 19          *of this Act.*

## 20                       ***TITLE III—PRODUCTION***

### 21          ***SEC. 301. OIL AND GAS FROM MARGINAL WELLS.***

22          ***(a) IN GENERAL.***—*Subpart D of part IV of subchapter*  
 23          *A of chapter 1 (relating to business credits) is amended by*  
 24          *adding at the end the following:*

1 **“SEC. 45J. CREDIT FOR PRODUCING OIL AND GAS FROM**  
 2 **MARGINAL WELLS.**

3 “(a) *GENERAL RULE.*—For purposes of section 38, the  
 4 marginal well production credit for any taxable year is an  
 5 amount equal to the product of—

6 “(1) the credit amount, and

7 “(2) the qualified credit oil production and the  
 8 qualified natural gas production which is attributable  
 9 to the taxpayer.

10 “(b) *CREDIT AMOUNT.*—For purposes of this section—

11 “(1) *IN GENERAL.*—The credit amount is—

12 “(A) \$3 per barrel of qualified crude oil  
 13 production, and

14 “(B) 50 cents per 1,000 cubic feet of quali-  
 15 fied natural gas production.

16 “(2) *REDUCTION AS OIL AND GAS PRICES IN-*  
 17 *CREASE.*—

18 “(A) *IN GENERAL.*—The \$3 and 50 cents  
 19 amounts under paragraph (1) shall each be re-  
 20 duced (but not below zero) by an amount which  
 21 bears the same ratio to such amount (determined  
 22 without regard to this paragraph) as—

23 “(i) the excess (if any) of the applica-  
 24 ble reference price over \$15 (\$1.67 for quali-  
 25 fied natural gas production), bears to

1                   “(ii) \$3 (\$0.33 for qualified natural  
2                   gas production).

3                   *The applicable reference price for a taxable year*  
4                   *is the reference price of the calendar year pre-*  
5                   *ceding the calendar year in which the taxable*  
6                   *year begins.*

7                   “(B) INFLATION ADJUSTMENT.—*In the case*  
8                   *of any taxable year beginning in a calendar year*  
9                   *after 2001, each of the dollar amounts contained*  
10                  *in subparagraph (A) shall be increased to an*  
11                  *amount equal to such dollar amount multiplied*  
12                  *by the inflation adjustment factor for such cal-*  
13                  *endar year (determined under section*  
14                  *43(b)(3)(B) by substituting ‘2000’ for ‘1990’).*

15                  “(C) REFERENCE PRICE.—*For purposes of*  
16                  *this paragraph, the term ‘reference price’ means,*  
17                  *with respect to any calendar year—*

18                         “(i) *in the case of qualified crude oil*  
19                         *production, the reference price determined*  
20                         *under section 29(d)(2)(C), and*

21                         “(ii) *in the case of qualified natural*  
22                         *gas production, the Secretary’s estimate of*  
23                         *the annual average wellhead price per 1,000*  
24                         *cubic feet for all domestic natural gas.*

1       “(c) *QUALIFIED CRUDE OIL AND NATURAL GAS PRO-*  
 2 *DUCTION.—For purposes of this section—*

3               “(1) *IN GENERAL.—The terms ‘qualified crude*  
 4 *oil production’ and ‘qualified natural gas production’*  
 5 *mean domestic crude oil or natural gas which is pro-*  
 6 *duced from a qualified marginal well.*

7               “(2) *LIMITATION ON AMOUNT OF PRODUCTION*  
 8 *WHICH MAY QUALIFY.—*

9                   “(A) *IN GENERAL.—Crude oil or natural*  
 10 *gas produced during any taxable year from any*  
 11 *well shall not be treated or qualified crude oil*  
 12 *production or qualified natural gas production*  
 13 *to the extent production from the well during the*  
 14 *taxable year exceeds 1,095 barrels or barrel*  
 15 *equivalents.*

16               “(B) *PROPORTIONATE REDUCTIONS.—*

17                   “(i) *SHORT TAXABLE YEARS.—In the*  
 18 *case of a short taxable year, the limitations*  
 19 *under this paragraph shall be proportion-*  
 20 *ately reduced to reflect the ratio which the*  
 21 *number of days in such taxable year bears*  
 22 *to 365.*

23                   “(ii) *WELLS NOT IN PRODUCTION EN-*  
 24 *TIRE YEAR.—In the case of a well which is*  
 25 *not capable of production during each day*

1           *of a taxable year, the limitations under this*  
 2           *paragraph applicable to the well shall be*  
 3           *proportionately reduced to reflect the ratio*  
 4           *which the number of days of production*  
 5           *bears to the total number of days in the tax-*  
 6           *able year.*

7           “(3) *DEFINITIONS.—*

8                 “(A) *QUALIFIED MARGINAL WELL.—The*  
 9           *term ‘qualified marginal well’ means a domestic*  
 10          *well—*

11                         “(i) *the production from which during*  
 12           *the taxable year is treated as marginal pro-*  
 13           *duction under section 613A(c)(6), or*

14                         “(ii) *which, during the taxable year—*

15                                 “(I) *has average daily production*  
 16           *of not more than 25 barrel equivalents,*  
 17           *and*

18                                 “(II) *produces water at a rate not*  
 19           *less than 95 percent of total well efflu-*  
 20           *ent.*

21                 “(B) *CRUDE OIL, ETC.—The terms ‘crude*  
 22           *oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have*  
 23           *the meanings given such terms by section*  
 24           *613A(e).*

1                   “(C) *BARREL EQUIVALENT.*—*The term ‘bar-*  
 2                   *rel equivalent’ means, with respect to natural*  
 3                   *gas, a conversion ratio of 6,000 cubic feet of*  
 4                   *natural gas to 1 barrel of crude oil.*

5                   “(d) *OTHER RULES.*—

6                   “(1) *PRODUCTION ATTRIBUTABLE TO THE TAX-*  
 7                   *PAYER.*—*In the case of a qualified marginal well in*  
 8                   *which there is more than one owner of operating in-*  
 9                   *terests in the well and the crude oil or natural gas*  
 10                  *production exceeds the limitation under subsection*  
 11                  *(c)(2), qualifying crude oil production or qualifying*  
 12                  *natural gas production attributable to the taxpayer*  
 13                  *shall be determined on the basis of the ratio which*  
 14                  *taxpayer’s revenue interest in the production bears to*  
 15                  *the aggregate of the revenue interests of all operating*  
 16                  *interest owners in the production.*

17                  “(2) *OPERATING INTEREST REQUIRED.*—*Any*  
 18                  *credit under this section may be claimed only on pro-*  
 19                  *duction which is attributable to the holder of an oper-*  
 20                  *ating interest.*

21                  “(3) *PRODUCTION FROM NONCONVENTIONAL*  
 22                  *SOURCES EXCLUDED.*—*In the case of production from*  
 23                  *a qualified marginal well which is eligible for the*  
 24                  *credit allowed under section 29 for the taxable year,*  
 25                  *no credit shall be allowable under this section unless*



1        *the taxpayer elects not to claim the credit under sec-*  
 2        *tion 29 with respect to the well.*

3                “(4) *NONCOMPLIANCE WITH POLLUTION LAWS.—*  
 4        *For purposes of subsection (c)(3)(A), a marginal well*  
 5        *which is not in compliance with the applicable State*  
 6        *and Federal pollution prevention, control, and permit*  
 7        *requirements for any period of time shall not be con-*  
 8        *sidered to be a qualified marginal well during such*  
 9        *period.”.*

10        (b) *CREDIT TREATED AS BUSINESS CREDIT.—Section*  
 11        *38(b) is amended by striking “plus” at the end of para-*  
 12        *graph (17), by striking the period at the end of paragraph*  
 13        *(18) and inserting “, plus”, and by adding at the end the*  
 14        *following:*

15                “(19) *the marginal oil and gas well production*  
 16        *credit determined under section 45J(a).”.*

17        (c) *CARRYBACK.—Subsection (a) of section 39 (relat-*  
 18        *ing to carryback and carryforward of unused credits gen-*  
 19        *erally) is amended by adding at the end the following:*

20                “(3) *10-YEAR CARRYBACK FOR MARGINAL OIL*  
 21        *AND GAS WELL PRODUCTION CREDIT.—In the case of*  
 22        *the marginal oil and gas well production credit—*  
 23                “(A) *this section shall be applied separately*  
 24                *from the business credit (other than the marginal*  
 25                *oil and gas well production credit),*

1           “(B) paragraph (1) shall be applied by sub-  
 2           stituting ‘10 taxable years’ for ‘1 taxable years’  
 3           in subparagraph (A) thereof, and

4           “(C) paragraph (2) shall be applied—

5                 “(i) by substituting ‘31 taxable years’  
 6                 for ‘21 taxable years’ in subparagraph (A)  
 7                 thereof, and

8                 “(ii) by substituting ‘30 taxable years’  
 9                 for ‘20 taxable years’ in subparagraph (A)  
 10                thereof.”.

11         (d) *COORDINATION WITH SECTION 29.*—Section 29(a)  
 12         is amended by striking “There” and inserting “At the elec-  
 13         tion of the taxpayer, there”.

14         (e) *CLERICAL AMENDMENT.*—The table of sections for  
 15         subpart D of part IV of subchapter A of chapter I is amend-  
 16         ed by adding at the end the following:

              “Sec. 45J. Credit for producing oil and gas from marginal wells.”.

17         (f) *EFFECTIVE DATE.*—The amendments made by this  
 18         section shall apply to production in taxable years beginning  
 19         after December 31, 2001.

1 **SEC. 302. TEMPORARY SUSPENSION OF LIMITATION BASED**  
 2 **ON 65 PERCENT OF TAXABLE INCOME AND EX-**  
 3 **TENSION OF SUSPENSION OF TAXABLE IN-**  
 4 **COME LIMIT WITH RESPECT TO MARGINAL**  
 5 **PRODUCTION.**

6 (a) *LIMITATION BASED ON 65 PERCENT OF TAXABLE*  
 7 *INCOME.*—Subsection (d) of section 613A (relating to limi-  
 8 *tation on percentage depletion in case of oil and gas wells*)  
 9 *is amended by adding at the end the following new para-*  
 10 *graph:*

11 “(6) *TEMPORARY SUSPENSION OF TAXABLE IN-*  
 12 *COME LIMIT.*—Paragraph (1) shall not apply to tax-  
 13 *able years beginning after December 31, 2001, and be-*  
 14 *fore January 1, 2007, including with respect to*  
 15 *amounts carried under the second sentence of para-*  
 16 *graph (1) to such taxable years.”.*

17 (b) *EXTENSION OF SUSPENSION OF TAXABLE INCOME*  
 18 *LIMIT WITH RESPECT TO MARGINAL PRODUCTION.*—Sub-  
 19 *paragraph (H) of section 613A(c)(6) (relating to temporary*  
 20 *suspension of taxable income limit with respect to marginal*  
 21 *production) is amended by striking “2002” and inserting*  
 22 *“2007”.*

23 (c) *EFFECTIVE DATE.*—The amendment made by sub-  
 24 *section (a) shall apply to taxable years beginning after De-*  
 25 *cember 31, 2001.*

1 **SEC. 303. DEDUCTION FOR DELAY RENTAL PAYMENTS.**

2       (a) *IN GENERAL.*—Section 263 (relating to capital ex-  
3 penditures) is amended by adding after subsection (i) the  
4 following:

5       “(j) *DELAY RENTAL PAYMENTS FOR DOMESTIC OIL*  
6 *AND GAS WELLS.*—

7           “(1) *IN GENERAL.*—Notwithstanding subsection  
8 (a), a taxpayer may elect to treat delay rental pay-  
9 ments incurred in connection with the development of  
10 oil or gas within the United States (as defined in sec-  
11 tion 638) as payments which are not chargeable to  
12 capital account. Any payments so treated shall be al-  
13 lowed as a deduction in the taxable year in which  
14 paid or incurred.

15           “(2) *DELAY RENTAL PAYMENTS.*—For purposes  
16 of paragraph (1), the term ‘delay rental payment’  
17 means an amount paid for the privilege of deferring  
18 development of an oil or gas well under an oil or gas  
19 lease.”.

20       (b) *CONFORMING AMENDMENT.*—Section 263A(c)(3) is  
21 amended by inserting “263(j),” after ‘263(i),’.

22       (c) *EFFECTIVE DATE.*—The amendments made by this  
23 section shall apply to amounts paid or incurred in taxable  
24 years beginning after December 31, 2001.

1 **SEC. 304. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**  
2 **PHYSICAL EXPENDITURES.**

3 (a) *IN GENERAL.*—Section 263 (relating to capital ex-  
4 penditures) is amended by adding after subsection (j) the  
5 following:

6 “(k) *GEOLOGICAL AND GEOPHYSICAL EXPENDITURES*  
7 *FOR DOMESTIC OIL AND GAS WELLS.*—Notwithstanding  
8 subsection (a), a taxpayer may elect to treat geological and  
9 geophysical expenses incurred in connection with the explo-  
10 ration for, or development of, oil or gas within the United  
11 States (as defined in section 638) as expenses which are  
12 not chargeable to capital account. Any expenses so treated  
13 shall be allowed as a deduction in the taxable year in which  
14 paid or incurred.”.

15 (b) *CONFORMING AMENDMENT.*—Section 263A(c)(3),  
16 as amended by section 303(b), is amended by inserting  
17 “263(k),” after “263(j),”.

18 (c) *EFFECTIVE DATE.*—The amendments made by this  
19 section shall apply to costs paid or incurred in taxable  
20 years beginning after December 31, 2001.

1 **SEC. 305. 5-YEAR NET OPERATING LOSS CARRYBACK FOR**  
 2 **LOSSES ATTRIBUTABLE TO OPERATING MIN-**  
 3 **ERAL INTERESTS OF OIL AND GAS PRO-**  
 4 **DUCERS.**

5 (a) *IN GENERAL.*—Paragraph (1) of section 172(b)  
 6 (relating to years to which loss may be carried) is amended  
 7 by adding at the end the following new subparagraph:

8 “(H) *LOSSES ON OPERATING MINERAL IN-*  
 9 *TERESTS OF OIL AND GAS PRODUCERS.*—In the  
 10 case of a taxpayer which has an eligible oil and  
 11 gas loss (as defined in subsection (j)) for a tax-  
 12 able year, such eligible oil and gas loss shall be  
 13 a net operating loss carryback to each of the 5  
 14 taxable years preceding the taxable year of such  
 15 loss.”.

16 (b) *ELIGIBLE OIL AND GAS LOSS.*—Section 172 is  
 17 amended by redesignating subsection (j) as subsection (k)  
 18 and by inserting after subsection (i) the following new sub-  
 19 section:

20 “(j) *ELIGIBLE OIL AND GAS LOSS.*—For purposes of  
 21 this section—

22 “(1) *IN GENERAL.*—The term ‘eligible oil and  
 23 gas loss’ means the lesser of—

24 “(A) the amount which would be the net op-  
 25 erating loss for the taxable year if only income  
 26 and deductions attributable to operating mineral

1           *interests (as defined in section 614(d)) in oil and*  
 2           *gas wells are taken into account, or*

3                   “(B) *the amount of the net operating loss*  
 4           *for such taxable year.*

5           “(2) *COORDINATION WITH SUBSECTION (b)(2).—*  
 6           *For purposes of applying subsection (b)(2), an eligible*  
 7           *oil and gas loss for any taxable year shall be treated*  
 8           *in a manner similar to the manner in which a speci-*  
 9           *fied liability loss is treated.*

10           “(3) *ELECTION.—Any taxpayer entitled to a 5-*  
 11           *year carryback under subsection (b)(1)(H) from any*  
 12           *loss year may elect to have the carryback period with*  
 13           *respect to such loss year determined without regard to*  
 14           *subsection (b)(1)(H).”.*

15           “(c) *EFFECTIVE DATE.—The amendments made by this*  
 16           *section shall apply to net operating losses for taxable years*  
 17           *beginning after December 31, 2001.*

18   **SEC. 306. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 19                   **PRODUCING FUEL FROM A NONCONVEN-**  
 20                   **TIONAL SOURCE.**

21           “(a) *IN GENERAL.—Section 29 is amended by adding*  
 22           *at the end the following new subsection:*

23                   “(h) *EXTENSION FOR OTHER FACILITIES.—*

24                   “(1) *EXTENSION FOR OIL AND CERTAIN GAS.—In*  
 25           *the case of a well for producing qualified fuels de-*

scribed in subparagraph (A) or (B)(i) of subsection  
(c)(1)—

“(A) *APPLICATION OF CREDIT FOR NEW  
WELLS.*—Notwithstanding subsection (f), this  
section shall apply with respect to such fuels—

“(i) which are produced from a well  
drilled after the date of the enactment of  
this subsection and before January 1, 2007,  
and

“(ii) which are sold not later than the  
close of the 4-year period beginning on the  
date that such well is drilled, or, if earlier,  
January 1, 2010.

“(B) *EXTENSION OF CREDIT FOR OLD  
WELLS.*—Subsection (f)(2) shall be applied by  
substituting ‘2007’ for ‘2003’ with respect to  
wells described in subsection (f)(1)(A) with re-  
spect to such fuels.

“(2) *EXTENSION FOR FACILITIES PRODUCING  
QUALIFIED FUEL FROM LANDFILL GAS.*—

“(A) *IN GENERAL.*—In the case of a facility  
for producing qualified fuel from landfill gas  
which was placed in service after June 30, 1998,  
and before January 1, 2007, this section shall



1       *apply to fuel produced at such facility during*  
2       *the 5-year period beginning on the later of—*

3               “(i) *the date such facility was placed*  
4               *in service, or*

5               “(ii) *the date of the enactment of this*  
6               *subsection.*

7               “(B) *REDUCTION OF CREDIT FOR CERTAIN*  
8       *LANDFILL FACILITIES.—In the case of a facility*  
9       *to which paragraph (1) applies and which is*  
10       *subject to the 1996 New Source Performance*  
11       *Standards/Emmissions Guidelines of the Envi-*  
12       *ronmental Protection Agency, subsection (a)(1)*  
13       *shall be applied by substituting ‘\$2’ for ‘\$3’.*

14               “(3) *SPECIAL RULES.—In determining the*  
15       *amount of credit allowable under this section solely*  
16       *by reason of this subsection—*

17               “(A) *DAILY LIMIT.—The amount of quali-*  
18       *fied fuels sold during any taxable year which*  
19       *may be taken into account by reason of this sub-*  
20       *section with respect to any project shall not ex-*  
21       *ceed an average barrel-of-oil equivalent of*  
22       *200,000 cubic feet of natural gas per day. Days*  
23       *before the date the project is placed in service*  
24       *shall not be taken into account in determining*  
25       *such average.*

1                   “(B) *EXTENSION PERIOD TO COMMENCE*  
 2                   *WITH UNADJUSTED CREDIT AMOUNT.*—*In the*  
 3                   *case of fuels sold during 2001 and 2002, the dol-*  
 4                   *lar amount applicable under subsection (a)(1)*  
 5                   *shall be \$3 (without regard to subsection (b)(2)).*  
 6                   *In the case of fuels sold after 2002, subparagraph*  
 7                   *(B) of subsection (d)(2) shall be applied by sub-*  
 8                   *stituting ‘2002’ for ‘1979’.*”.

9                   (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 10                  *section shall apply to fuel sold after the date of the enact-*  
 11                  *ment of this Act.*

12                  **SEC. 307. BUSINESS RELATED ENERGY CREDITS ALLOWED**  
 13                                  **AGAINST REGULAR AND MINIMUM TAX.**

14                  (a) *IN GENERAL.*—*Subsection (c) of section 38 (relat-*  
 15                  *ing to limitation based on amount of tax) is amended by*  
 16                  *redesignating paragraph (3) as paragraph (4) and by in-*  
 17                  *serting after paragraph (2) the following new paragraph:*

18                                  “(3) *SPECIAL RULES FOR SPECIFIED ENERGY*  
 19                                  *CREDITS.*—

20    “(A) *IN GENERAL.*—*In the case of specified*  
 21    *energy credits—*

22    “(i) *this section and section 39 shall be*  
 23    *applied separately with respect to such*  
 24    *credits, and*

1 “(ii) in applying paragraph (1) to  
2 such credits—

3 “(I) the tentative minimum tax  
4 shall be treated as being zero, and

5 “(II) the limitation under para-  
6 graph (1) (as modified by subclause  
7 (I)) shall be reduced by the credit al-  
8 lowed under subsection (a) for the tax-  
9 able year (other than the specified en-  
10 ergy credits).

11 “(B) SPECIFIED ENERGY CREDITS.—For  
12 purposes of this subsection, the term ‘specified  
13 energy credits’ means the credits determined  
14 under sections 45G, 45H, 45I, 45J, and 45K.”.

15 (b) CONFORMING AMENDMENT.—Subclause (II) of sec-  
16 tion 38(c)(2)(A)(ii) is amended by inserting “or the speci-  
17 fied energy credits” after “employment credit”.

18 (c) EFFECTIVE DATE.—The amendments made by this  
19 section shall apply to taxable years ending after the date  
20 of enactment of this Act.

21 **SEC. 308. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM**  
22 **TAX PREFERENCE FOR INTANGIBLE DRILL-**  
23 **ING COSTS.**

24 (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)  
25 is amended by adding at the end the following new sentence:

1 “The preceding sentence shall not apply to taxable years  
 2 beginning after December 31, 2001, and before January 1,  
 3 2005.”.

4 (b) *EFFECTIVE DATES.*—The amendment made by this  
 5 section shall apply to taxable years beginning after Decem-  
 6 ber 31, 2001.

7 **SEC. 309. ALLOWANCE OF ENHANCED RECOVERY CREDIT**  
 8 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

9 (a) *IN GENERAL.*—Subparagraph (B) of section  
 10 38(c)(4) is amended by adding at the end the following new  
 11 sentence: “For taxable years beginning before January 1,  
 12 2005, such term includes the credit determined under sec-  
 13 tion 43.”

14 (b) *EFFECTIVE DATE.*—The amendment made by this  
 15 section shall apply to taxable years beginning after Decem-  
 16 ber 31, 2001.

17 **SEC. 310. EXTENSION OF CERTAIN BENEFITS FOR ENERGY-**  
 18 **RELATED BUSINESSES ON INDIAN RESERVA-**  
 19 **TIONS.**

20 (a) *DEPRECIATION FOR PROPERTY ON INDIAN RES-*  
 21 *ERVATIONS.*—Paragraph (8) of section 168(j) (relating to  
 22 termination) is amended by adding at the end the following  
 23 new sentence: “The preceding sentence shall be applied by  
 24 substituting ‘December 31, 2006’ for ‘December 31, 2003’

1 *in the case of property placed in service as part of a facility*  
 2 *for—*

3                   “(A) *the generation or transmission of elec-*  
 4                   *tricity (including from any qualified energy re-*  
 5                   *source, as defined in section 45(c)),*

6                   “(B) *an oil or gas well,*

7                   “(C) *the transmission or refining of oil or*  
 8                   *gas, or*

9                   “(D) *the production of any qualified fuel*  
 10                   *(as defined in section 29(c)).”*

11           (b) *EMPLOYMENT OF INDIANS.*—Subsection (f) of sec-  
 12 *tion 45A (relating to termination) is amended by adding*  
 13 *at the end the following new sentence: “The preceding sen-*  
 14 *tence shall be applied by substituting ‘December 31, 2006’*  
 15 *for ‘December 31, 2003’ in the case of wages paid for serv-*  
 16 *ices performed at a facility described in section 168(j)(8).”*

**Union Calendar No. 93**

107TH CONGRESS  
1ST SESSION

**H. R. 2511**

**[Report No. 107-157]**

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**A BILL**

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production.

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JULY 24, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed